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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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UNITED STATES OF AMERICA ( 3:07-CR-289-M  
Government, (

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VERSUS ( DALLAS, TEXAS

5

( August 10, 2009

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DONALD W. HILL (1) (

D'ANGELO LEE (2) (

7

SHEILA D. FARRINGTON (3) (

DARREN L. REAGAN (7) (

07:41:18

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RICKEY E. ROBERTSON (10) ( 8:15 a.m.  
Defendants. (

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Volume 22

10

TRANSCRIPT OF JURY TRIAL  
THE HONORABLE BARBARA M. G. LYNN  
UNITED STATES DISTRICT JUDGE, and a jury

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A P P E A R A N C E S:

12

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P R O C E E D I N G S  
Volume 22  
August 10, 2009  
8:15 a.m.  
JURY TRIAL

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(Judge enters the courtroom)

6

THE COURT: All right. Be seated, please.

7

Are we ready to proceed with admission of defense

8

exhibits?

9

MR. VITAL: Yes, your Honor.

10

THE COURT: All right. Mr. Vital.

11

MR. VITAL: Jon is going to handle that.

12

THE COURT: Okay. Mr. Mureen.

08:18:38 13

14

MR. MUREEN: For Sheila Hill we will offer all of  
our remaining exhibits with a few exceptions.

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16

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21

First, regarding the wiretaps, we have cross-designated  
wiretaps, and to avoid confusion what we're going to do is we  
have gone through and found all the calls that the government  
has not designated and we will designate those ourselves and  
offer transcripts for those, but we're going to rely on the  
government to call the transcripts so that people don't get  
confused.

22

Does that make sense?

23

24

25

THE COURT: No. I mean, what I heard you say is  
that you're not going to redesignate what they designated.  
Okay. But there were things that they had not designated that

08:19:27 1 you were are designating.

2 MR. MUREEN: That's right. But we are also -- as  
3 far as the calls go that they have not designated, the  
4 transcripts have errors in them, as you saw that first day,  
5 misspelling of Cheryl, and our staff is going back through  
6 them.

7 So what we want to do is come back with all the  
8 transcripts they have not created, give them to the government  
9 and offer them at once. That will be within the next week,  
10 but that just takes time to do that.

11 THE COURT: All right. Well, what I want you to do  
12 is to give something like the government gave me so I don't  
13 have to go through my list and figure out what's in or not in.  
14 So what I want you to do is give me a list that shows what you  
08:20:07 15 say is in, and then I'll admit all the others.

16 MR. MUREEN: Okay. You're talking about for all the  
17 exhibits that we're doing this morning?

18 THE COURT: Yes. But if you want to give me those  
19 now, I just want to make sure we have an agreed consolidated  
20 list. If you want to give me the new ones now to use this  
21 time wisely, that's fine.

22 MR. MUREEN: Are you --

23 THE COURT: Just give me the new exhibits.

24 MR. MUREEN: Read off the names of the exhibits that  
25 are already in?

08: 20: 34 1

THE COURT: No.

2

MR. MUREEN: Okay. Read off the exhibits that we want to be in that are not?

3

4

THE COURT: I'm going to start over with you, Mr. Mureen.

5

6

Have a cup of coffee.

7

8

MR. STEINKE: We will give you a mulligan, your Honor.

9

10

11

12

13

THE COURT: Okay. Give me the new exhibits right now, and then when you're done with that, after you give me the transcripts and the new wiretaps, then you will give me a consolidated list of all of the exhibits that you have admitted.

14

08: 21: 05 15

MR. MUREEN: Okay. The defense offers Exhibits 1 through 9, 11 through 62.

16

17

18

MR. MEACHAM: The government has objections in that range, and that's probably all the objections has to those exhibits.

19

20

21

22

23

24

25

THE COURT: Which ones?

MR. MEACHAM: 12, 15, 41, 42, 44 and 50.

THE COURT: All right.

MR. MUREEN: 64 through 69.

THE COURT: 64 through 69.

MR. MUREEN: 82 through 85, 87 through 102-A, 104 through 109 and 117.

08: 22: 06 1 THE COURT: Okay. So you have given me the six you  
2 object to and no others, Mr. Meacham?

3 MR. MEACHAM: There are no other objections to  
4 Sheila Hill.

5 THE COURT: I take it no other defendants object?  
6 (No response.)

7 THE COURT: Then the Court admits the following  
8 exhibits: 1 through 9, 11, 13, 14, 16 through 40, 43, 45  
9 through 49 and 51 through 62. I have excluded the six the  
10 government objected to. 64 through 69, 82 through 85, 87  
11 through 102-A, 104 to 109 and 117.

12 MR. MUREEN: We also offer the following Brian  
13 Potashnik Exhibits: 22, 36, 64, 75, 95, 102, 115, 192 through  
14 194, 205, 206, 287, 296, 298, 300, 316, 318, 320 through 322,  
08: 23: 48 15 325, 326, 328 and 330 through 331.

16 THE COURT: Any objection to those?

17 MR. MEACHAM: I'm sorry, your Honor, I have got a  
18 number of notes written down.

19 The first Brian Potashnik Exhibit that was offered was  
20 22?

21 THE COURT: Yes.

22 MR. MEACHAM: Most of the government's objections  
23 are prior to that.

24 The government also objects -- I don't think they were  
25 called out, but I want to make sure. The government also

08: 24: 13 1 objects to Brian Potashnik 56.

2 THE COURT: They didn't call that, Mr. Meacham.

3 MR. MEACHAM: Okay. I'm just trying to double  
4 check. 61, 240 through 249. I don't think they did either.  
5 I'm just double-checking.

6 THE COURT: No.

7 MR. MEACHAM: 260 or 262.

8 THE COURT: Any objection from defense counsel for  
9 any of those?

10 MR. STEINKE: No.

11 THE COURT: The following exhibits are also  
12 admitted.

13 Brian Potashnik numbers 22, 36, 64, 75, 95, 102, 115, 192  
14 through '94, 205, 206, 287, 296, 298, 300, 316, 318, 320  
08: 24: 56 15 through '22, 325, 326, 328, 330 through '31.

16 All right. Mr. Jackson.

17 MR. JACKSON: Yes, your Honor.

18 We would offer -- we hadn't made any offer so far yet, so  
19 I believe that we offer Defendants' Exhibits 1 through 59.  
20 And I determined this weekend -- I'll supplement it -- but my  
21 Exhibit Number 2 is supposed to be John Lewis' financial  
22 records, and I think I doubled another exhibit, so I will get  
23 the proper exhibit for my Exhibit Number 2 and supplement that  
24 and have it into the Court's file, but as numbered and as  
25 titled we would offer Exhibits 1 through 59 subject to number

08: 25: 51 1 2 bei ng Mr. Lewi s' IOLTA records.

2 MR. MEACHAM: The government objects to Defense  
3 Exhi bi t Number 56 only.

4 THE COURT: All right. 1 through 59 including  
5 corrected number 2 are admitted with the exception of 56.

6 THE COURT: Okay.

7 MR. JACKSON: We would also like to offer Brian  
8 Potashnik Exhi bi t Numbers 299 and 310.

9 THE COURT: Any objection to those?

10 MR. MEACHAM: No, your Honor.

11 THE COURT: Those are also admitted.

12 All right. Mr. Greene.

13 MR. GREENE: Thank you, your Honor.

14 We have offered Exhi bi t Number 1.

08: 26: 35 15 THE COURT: I don't want to hear what you have  
16 offered. I want to know what you haven't offered.

17 MR. GREENE: We want to offer Exhi bi t Number 10,  
18 Exhi bi t Number 11, Numbers 14, 20, 21, 27 -- I believe that's  
19 already been offered -- 31, 33, 34, 35, 36, 37, 39, 40, 45,  
20 47, 50. Also 136, 138, 139.

21 Your Honor, the ones in the middle are the tapes, and  
22 quite frankly we haven't gone through them enough to come up  
23 with the transcripts, and we are in the same position as  
24 Mr. Mureen, so we would ask that we be allowed some leeway on  
25 that.



08: 27: 43 1

THE COURT: All right.

2

MR. GREENE: The other one is Exhibits 140, 141,

3

142, 143, 144, 145, 146, 147.

4

THE COURT: Are you finished?

5

MR. GREENE: Yes.

6

THE COURT: Objections?

7

MR. MEACHAM: The government objects to Defense

8

Exhibits 33 through 40. I don't know if he offered every one

9

of those. The government objects to those.

10

THE COURT: Any other objections?

11

MR. MEACHAM: Yes, your Honor.

12

45, 136, 140, 141, 142, 143, 144, 145 and 146.

13

Let me look at 147 real quick.

14

No objection to 147.

08: 28: 49 15

THE COURT: All right. Any other defense

16

objections?

17

(No response.)

18

THE COURT: All right. The following Lee Exhibits

19

are admitted: 10, 11, 14, 20, 21, 27, 31, 47, 50, 138, 139

20

and 147.

21

The others you will have to prove up. They're not agreed

22

to.

23

MR. GREENE: Yes, your Honor.

24

THE COURT: All right. Mr. Steinke.

25

MR. STEINKE: We would offer Reagan Exhibits 2

08: 29: 18 1 through 14, Reagan Exhibits 16, 17, 19 and 20.

2 On my exhibit list is Reagan Exhibit 18. That is the  
3 Allen McGill plea agreement, but in reading it, your Honor,  
4 that was before the local rule went into effect.

5 THE COURT: Let's not be specific about that.

6 MR. STEINKE: So rather than offer it into evidence,  
7 I would suggest just using it the same way we did the other  
8 document.

9 THE COURT: That's fine.

10 Any objection to those?

11 MR. MEACHAM: Objection to Number 17 only.

12 THE COURT: All right. 2 through 14, 16, 19 and 20  
13 are admitted.

14 All right. Mr. Robertson.

08: 30: 06 15 MS. DECKARD: Your Honor, we would offer Rickey  
16 Robertson Exhibits 1 through 75, and we are filing this  
17 morning the Title III transcripts that we have filed a month  
18 ago, two months ago in the month of May. We're filing those  
19 as exhibits as well. That's Exhibit 82 through 100.

20 THE COURT: Any objection to those?

21 MR. MEACHAM: Government objects to Exhibit Numbers  
22 1, 9 and 10 and all of the draft transcripts that Ms. Deckard  
23 has marked as 82 to 100.

24 MS. DECKARD: These are not transcripts. These are  
25 the actual tapes that you had given me. The tapes that you

08: 30: 57 1 di dn' t desi gnate, we' re desi gnati ng.

2 MR. MEACHAM: No objecti on to the recordings.

3 THE COURT: I thought you said transcripts too.

4 MS. DECKARD: I' m sorry. These are the Title III  
5 recordi ngs.

6 THE COURT: You' re not offering transcripts?

7 MS. DECKARD: No. Just the recordings.

8 MR. MEACHAM: All the Title III recordings are in  
9 evide nce. There may be consensual meetings, I' m not sure.

10 THE COURT: Well, they' re saying you didn' t put in  
11 all of them.

12 MS. DECKARD: These are the ones you did designate.  
13 These are the counter-designations of the Title III  
14 recordi ngs.

08: 31: 24 15 MR. MEACHAM: No objecti on.

16 THE COURT: Then Robertson Exhibi ts 1 through 75  
17 except for 1, 9 and 10 and 82 through 100 are admitted.

18 All right. Anything else to take up before we bring in  
19 the jury?

20 MS. SALDANA: Your Honor, the government does have a  
21 matter that occurred over the weekend that we need to apprise  
22 the Court of, if we could do that in chambers.

23 THE COURT: Okay. Do defendants object to their  
24 counsel meeting with the Court in chambers without them being  
25 present?

08:31:57 1

Mr. Hill?

2

MR. HILL: No, I don't, your Honor.

3

THE COURT: Ms. Hill?

4

MS. HILL: No, I don't.

5

THE COURT: All right. Mr. Lee?

6

MR. LEE: No objection.

7

THE COURT: Mr. Robertson?

8

MR. ROBERTSON: No.

9

THE COURT: Mr. Reagan?

10

MR. REAGAN: No.

11

THE COURT: All right. I'll see y'all in chambers.

12

MR. WILLIAMS: All rise.

13

(Brief recess.)

14

(Judge enters the courtroom.)

08:50:27 15

THE COURT: All right. Bring in the jury.

16

(Jury returned to the courtroom.)

17

(Court opening.)

18

THE COURT: Good morning.

19

Ladies and gentlemen. Sorry to have kept you a bit.

20

When that happens we're doing something in here that I think

21

will be helpful to you in the long run.

22

I'm going to take a moment of personal privilege here,

23

and tell you that yesterday we lost one of our court security

24

officers, John Littlejohn, who had been with us for a long

25

time.

08: 52: 13 1 I think you all know from your good experience with  
2 Mr. Williams that our court security officers are really vital  
3 to our court system. They protect us, but they're also our  
4 friends. We admire them very much.

5 Most of our court security officers were law enforcement  
6 officials before they came to us, and they contribute a great  
7 deal to the Court. So I'm going to ask that we just have a  
8 moment of silence in memory of Mr. Littlejohn.

9 THE COURT: Thank you.

10 All right. You may proceed, Mr. Greene.

11 MR. GREENE: Thank you, your Honor.

12 ***KATHY NEALY***, (Sworn)

13 having been previously sworn, testified as follows:

14 ***CROSS-EXAMINATION (Cont'd)***

08: 52: 50 15 BY MR. GREENE:

16 Q. Good morning, Ms. Nealy. I'll give you a second to get a  
17 drink of water.

18 A. Good morning.

19 Q. Just to kind of recap a little bit what we were going  
20 over Friday, when we broke we were discussing the things that  
21 Mr. Fisher did not tell you about. Okay. And we were talking  
22 about he didn't tell you about the contract with Mr. Fantroy,  
23 right?

24 A. Yes.

25 Q. Nor did he tell you that he was recording conversations

08:53:39 1 for the FBI?

2 A. Yes.

3 Q. Right. All right. And he also didn't tell that he was

4 recording conversations -- your conversations?

5 A. Yes.

6 Q. All right. At the break what we were trying to do was

7 play one of those particular conversations.

8 A. Yes.

9 Q. And I'll tell you that that conversation took place on

10 February 9, 2005 at approximately 5:40 in the evening.

11 A. Okay.

12 Q. Okay. He was talking about a change of the guard in

13 District 5. All right?

14 A. Okay.

08:54:11 15 MR. GREENE: Mr. Allen, if you would, play

16 Defendants' Exhibit 89, and start it around the 13:45 mark.

17 Your Honor, we don't have a transcript.

18 THE COURT: All right.

19 (Audiotape clip, DLX 89 played.)

20 MR. GREENE: Can you hear it?

21 (Nodding heads up and down.)

22 (Audiotape clip, DLX 89 played.)

23 MR. GREENE: Pause one second.

24 BY MR. GREENE:

25 Q. Ms. Nealy, can you hear yourself on that tape?

08:56:05 1 A. Uh-huh.  
2 Q. That's you talking?  
3 A. Yeah.  
4 Q. You're talking to Bill Fisher?  
5 A. Yes.  
6 Q. Okay. And initially you're talking about the Strong  
7 Mayor Campaign?  
8 A. Yes.  
9 MR. GREENE: Continue.  
10 (Audiotape clip, DLX 89 played.)  
11 BY MR. GREENE:  
12 Q. Ms. Nealy, I -- I know you're cleaning up the water  
13 there.  
14 A. That's all right.  
09:03:29 15 Q. You heard the comments about Mr. Fisher waiting on the  
16 changing of the guard?  
17 A. Uh-huh.  
18 Q. He was talking about District 5?  
19 A. Uh-huh.  
20 Q. The council person for District 5 is Don Hill. Is that  
21 right?  
22 A. Yes.  
23 Q. The CPC commissioner was D'Angelo Lee?  
24 A. Uh-huh.  
25 Q. You are aware that Mr. Reagan was involved prior to that

09: 03: 46 1 with the contract with Mr. Fisher, correct?

2 A. Not really in the contractual relationship, no.

3 Q. All right. But when you were -- I'll give you a second

4 there.

5 A. That's fine.

6 Q. And that was the -- that was the contract and then going

7 through the --

8 A. Well, can I complain?

9 Q. Well, hold on.

10 The contract and then going through the procedure to get

11 zoning things changed. That was the triangle stuff that you

12 were talking about, right?

13 A. I mean -- ask the question again.

14 Q. All right. The contract with Mr. Reagan and Mr. Fisher,

09: 04: 24 15 along with having to get that approved, which you had to go

16 through CPC and city council to get approved, that was the

17 triangle thing you were talking about on the tape, right?

18 A. Yes.

19 Q. Okay. And what I wanted to talk to you about was you

20 told us yesterday -- I believe your -- Friday -- your

21 testimony was that in January of 2005 you were terminated by

22 Mr. Fisher's company, right?

23 A. I can't answer that in just a yes or no question, so can

24 I expand on that?

25 Q. Well, let me ask it to you this way.



09:05:01 1 Were you working for Mr. Fisher's company after January  
2 of 2005?  
3 A. It reduced dramatically. I continued to call because we  
4 still had an outstanding payment, but that's why I told him  
5 that I didn't mind talking with him, because perhaps -- I want  
6 to say it was late January -- that he had told me in one of  
7 those conversations that Darren and D'Angelo said don't talk  
8 to me anymore, talk to them.  
9 Q. But as of January 2005 you were --  
10 A. I stopped billing.  
11 Q. Okay. All right. Now -- and you would call him when you  
12 had some questions about the bill, correct?  
13 A. Yes. I would call and my office would call.  
14 Q. Now, this is a conversation where Mr. Fisher called you,  
09:05:51 15 correct?  
16 A. Okay.  
17 Q. Correct?  
18 A. I guess yes.  
19 Q. Well, I mean, are you agreeing with me on that?  
20 A. They got into a conversation. You went -- I mean --  
21 Q. Fair enough.  
22 A. It was a conversation on who -- we were having together,  
23 and I guess he called me.  
24 Q. That's what I was getting at.  
25 Now, you are aware that this is the FBI case, and the FBI

09:06:16 1 had certain wiretaps going on.

2 And are you aware that the wiretaps are generally the FBI  
3 would intercept calls out of the air, and you're aware of  
4 that, that's how it works, right?

5 A. You know what, sir?

6 Q. You don't know?

7 A. I don't know.

8 Q. All right. Okay. All right. And the point that I was  
9 going to make was that the person who's calling doesn't know  
10 they're being recorded, and the person who's receiving the  
11 call doesn't know they're being recorded, right?

12 A. I don't know how this works.

13 Q. All right.

14 A. I mean, as I said on Friday, I didn't know anything about  
09:06:53 15 the FBI tapes. I didn't know about any taping at all to  
16 anybody.

17 Q. Fair enough.

18 But are you aware now that Mr. Fisher was the only person  
19 who had the ability to dictate who he was going to call, and  
20 who he was going to record? Are you aware of that?

21 A. I don't know if it came from Bill Fisher, or if it was  
22 the FBI. I mean, I don't know.

23 Q. All right. Because you didn't know you were being  
24 recorded obviously, right?

25 A. That is correct.

09:07:23 1 Q. Do you think that a person -- do you think that it would  
2 be trustworthy for a person to call you and record you in the  
3 middle of an FBI investigation and not let you know about it?  
4 Do you think that's a person you can trust?

5 A. I don't know.

6 Q. You don't know?

7 All right.

8 A. I mean, I haven't done anything wrong. I tried to help  
9 Bill Fisher. So -- I mean, it didn't matter whether I was  
10 being chased or not. I mean, the truth is the truth, so  
11 that's the only thing I can deal with.

12 Q. Exactly. That's what we're trying to get at.

13 Now, would you agree, though, if he has the ability to  
14 control who he's calling and control the nature of that  
09:08:03 15 conversation --

16 A. Sir, you're repeating the same thing over and over again.

17 Q. Hold on. Thank you, ma'am.

18 But my question is, given that, don't you think he's sort  
19 of like the director of his own little reality show?

20 A. Sir, I don't know.

21 Q. Wouldn't you agree with me on that?

22 A. I do not know. I can't answer that.

23 Q. Well, let me ask you this.

24 Do you remember years ago they used to have this show  
25 called Candid Camera. I think now the new version is called

09:08:28 1 Punked. Have you ever seen those?  
2 MR. MEACHAM: Objection.  
3 THE COURT: Overruled.  
4 Excuse me.  
5 Overruled. You may answer.  
6 BY MR. GREENE:  
7 Q. I'll give you a second over there.  
8 A. Okay.  
9 Q. Are you all set?  
10 A. Uh-huh. I can look and see when you are talking.  
11 Q. Okay. But my point is that the joke of the show was that  
12 the actors didn't know they were being recorded, and they  
13 would set up these scenarios and get people making all --  
14 A. I watched Candid Camera.  
09:09:06 15 Q. So you remember that that was the brunt of the joke,  
16 right?  
17 A. If there was a joke. I don't think this is a joke.  
18 Q. Exactly. It wasn't not funny, exactly. And this isn't  
19 funny either?  
20 A. At all.  
21 Q. Bill Fisher was the director in this entire situation.  
22 Are you aware of that?  
23 A. No.  
24 Q. Okay. Now, you wouldn't normally do anything illegal,  
25 would you?

09:09:29 1 A. No.

2 Q. In this situation, as far as you know, you didn't do

3 anything improper, did you?

4 A. No.

5 Q. So would there be any reason that Mr. Fisher would decide

6 he needed to call you with the authorization from the FBI to

7 tape record people?

8 A. Can I explain that?

9 Q. I'm asking you.

10 A. Well, I can't do that in a yes or no question.

11 Q. Yes. You can explain it.

12 A. When we found out the morning at the Original House of

13 Pancakes that there was no longer support from the

14 councilman -- we were walking to the car.

09:10:03 15 Q. Okay?

16 A. Saleem Jafar turned around to me and said, "So when did

17 you find out?"

18 Q. Hold on. I don't want you making --

19 A. What I'm --

20 THE COURT: Wait. Wait. Wait. Ms. Nealy, just a

21 moment. There are things that you can't testify to, and if

22 counsel feels that you are going there he may change his

23 question.

24 THE WITNESS: Okay.

25 THE COURT: Go ahead.

09: 10: 24 1 MR. GREENE: Thank you, your Honor.

2 BY MR. GREENE:

3 Q. Now, by the way, were you aware that Bill Fisher's Dallas

4 West Village project had already passed the City Plan

5 Commission in December of 2005? Are you aware of that?

6 A. I know that that part was moving forward as far as the

7 planning commission.

8 Q. All right. That had already happened.

9 Okay. That was the board that Mr. Lee served on?

10 A. (Nodding head up and down.)

11 Q. Now, my last area is we were talking about -- we were

12 talking Friday about the speaking -- that you were speaking

13 with Mr. Lee and his experience -- his inexperience as a CPC

14 commissioner, correct? Do you remember that question on

09: 11: 14 15 Friday?

16 A. But I didn't agree that he was inexperienced because they

17 do a training when they first came in, and he was a

18 developer.

19 Q. All right. But do you remember that line of questioning

20 on Friday?

21 A. Okay.

22 Q. And now I want to play for you a tape that was made on

23 May 20, 2005 at 9:46 a.m. between yourself and Don Hill.

24 A. Okay.

25 Q. I'm just going to play a portion of the tape because the

09: 11: 41 1 jury has already heard some of it.

2 MR. GREENE: Your Honor, we would rather -- it's  
3 quicker just to play the tape than put the transcript up.

4 If your Honor could flip that to Mr. Mureen.

5 THE COURT: Okay.

6 MR. GREENE: Your Honor, just for the record, I see  
7 a picture of us, so I imagine that's -- something broke down.

8 THE COURT: Okay.

9 (Audiotape played.)

10 MR. GREENE: Thank you.

11 BY MR. GREENE:

12 Q. All right. That's your voice on that tape, correct?

13 A. Yes.

14 Q. You were talking to Mr. Hill, correct?

09: 13: 14 15 A. Yes.

16 Q. This was before the FBI investigation happened that you  
17 were aware of, right?

18 A. Right.

19 Q. This was before you had to hire an attorney, correct?

20 A. Yes.

21 Q. This was before you had to be subpoenaed to come testify?

22 A. Right.

23 Q. Before you spoke to the government at all?

24 A. Uh-huh.

25 Q. Correct?

09: 13: 33 1

A. Yes.

2

MR. GREENE: Nothing further.

3

THE COURT: All right. Thank you.

4

All right. Who's next up?

5

Mr. Jackson.

6

***CROSS-EXAMINATION***

7

BY MR. JACKSON:

8

Q. Good morning Ms. Nealy.

9

A. Good morning.

10

Q. You and I have never met before, have we?

11

A. No. We talked on the phone.

12

Q. Yes, ma'am.

13

You have known Don for more than 20 years, correct?

14

A. Yes.

09: 14: 06 15

Q. And I believe that you have known him even as a council member. Before this October 27th day you had known him for four years as a council member?

18

A. Yes.

19

Q. And you had even done business in Don's district before October 27th, is that correct, of 2004?

21

A. What do you mean?

22

Q. You had done business in his district meaning that you had had clients that you represented in this district before?

23

24

A. That we had to have support on issues, yes.

25

Q. And in fact you were a consultant with Masterplan on a



09: 14: 39 1 Southwest Housing development that was in Don's district. Do  
2 you recall that?  
3 A. Uh-huh. Yes.  
4 Q. I believe that that deal was the Pemberton Hill project?  
5 A. Yes.  
6 Q. I believe that that deal had opposition from a slum lord.  
7 Do you recall that?  
8 A. Yes.  
9 Q. Okay.  
10 A. The one on Loop 12?  
11 Q. Right.  
12 A. Yes.  
13 Q. As a result of that I believe you indicated that Brian  
14 Potashnik offered to team up with Reverend Johnson for  
09: 15: 16 15 support.  
16 Do you remember that?  
17 A. Yes.  
18 Q. And you also recall that Brian Potashnik pledged \$50,000  
19 to Reverend Johnson's CDC?  
20 A. Yes.  
21 Q. And that was Brian Potashnik's idea to partner with  
22 Reverend Johnson, was it not?  
23 A. Yes.  
24 Q. And you would agree with me that Brian Potashnik is very  
25 politically savvy?

09: 15: 40 1 A. Yes.

2 Q. Okay. And Don Hill never asked Brian Potashnik to team

3 up with Reverend Johnson, did he?

4 A. No, not to my knowledge.

5 Q. Since then I believe -- and let me establish -- I mean, I

6 guess you established some of your -- some of your clients and

7 some of the things you have done in the City of Dallas and all

8 around the country. Is that correct?

9 A. Yes.

10 Q. And you're pretty tight in Southern Dallas.

11 Would you agree with that?

12 A. Yes.

13 Q. And there are invoices that are still owed to you by

14 Brian Potashnik that he refused to pay, correct?

09: 16: 34 15 A. Someone else has resolved those issues.

16 Q. Okay.

17 A. They were paid.

18 Q. Okay. And -- but initially Brian Potashnik wasn't

19 worried about making you upset about not paying you your

20 invoices?

21 A. I don't know. Because my invoices came through

22 MasterPlan. So I invoiced -- even though they would say

23 Southwest Housing project on them, Masterplan would pay me my

24 dollars.

25 Q. Did -- in any prior deal that you had before October 27,

09: 17: 08 1 2004 did Don Hill ever try to bribe one of your clients, or  
2 take a bribe from one of your clients?  
3 A. No, not to my knowledge.  
4 Q. Have you ever seen prior to October 27, 2004 Don ask one  
5 of your clients for anything that was illegal?  
6 A. No.  
7 Q. Did he ever ask for anything that was illegal in support  
8 of him voting in their favor?  
9 A. No.  
10 Q. You operate with integrity, don't you?  
11 A. Sure.  
12 Q. And you didn't engage in bribery when you recommended  
13 Fantroy to Bill Fisher, did you?  
14 A. No.  
09: 17: 48 15 Q. Did the government tell you that you had committed  
16 bribery?  
17 A. No. Can I explain?  
18 Q. No.  
19 A. I had some exposure.  
20 THE COURT: Just answer the question.  
21 BY MR. JACKSON:  
22 Q. You understand that this is not a City ethics case,  
23 right?  
24 A. Yes.  
25 Q. And so let me then just ask -- let me ask you.

09: 18: 11 1 Do you know from your personal -- okay. You indicated  
2 that you had some exposure. Explain that.  
3 A. Because we continued to -- after we found out that there  
4 was a contract and continuing to talk to Mr. Fantroy, because  
5 you're not supposed to be talking to him, and that's what he  
6 exposed.  
7 Q. That would have been an ethical violation? You are  
8 talking about exposure, ethical violation?  
9 A. It could be ethical and legal.  
10 Q. Well, yeah. Let me back up, because an ethical is legal.  
11 They could have brought you up on state ethics charges,  
12 violations? Is that what you're saying?  
13 A. Now, you know, you lawyers gets real good with them  
14 words. So all I'm saying is legally there could be a problem  
09: 19: 10 15 to continue to talk with Mr. Fantroy while -- when he had  
16 recused himself when we found out that there was a contract.  
17 Q. But you didn't bribe?  
18 A. No, I did not.  
19 Q. Did Don Hill accept a bribe from Bill Fisher under your  
20 watch?  
21 A. I don't know exactly what you're saying.  
22 Q. Well --  
23 A. What do you mean "under my watch"?  
24 Q. I'm saying while you were a consultant for Bill Fisher  
25 did Don Hill accept a bribe from Bill Fisher?

09: 19: 46 1 A. I don't know.

2 Q. While -- you understand that Homes of Pecan Grove was

3 passed, right?

4 A. At Simpson Stuart?

5 Q. Yes.

6 A. Yes.

7 Q. Okay. And I understand that you -- for the Memorial Park

8 Townhomes that you missed out on a success fee by it not being

9 passed.

10 A. Right.

11 Q. You said that you believed that Don screwed your client,

12 correct?

13 A. Yes. May I explain that?

14 Q. Go ahead.

09: 20: 27 15 A. For many months we had the support, and then all of a

16 sudden it went the other way.

17 Q. Right.

18 A. Two weeks before the vote. And then in those two weeks

19 every day we were flipping, trying -- turning trying to answer

20 the questions, provide information, that was at the last

21 minute requested of us. So -- and then for him -- then he

22 flipped and said he was not going to support that and support

23 some apartments across the street as opposed to townhomes and

24 single-family homes. He had spent upwards to \$400,000.

25 That's how I concluded that yes, he was screwed.

09: 21: 08 1 Q. Right. If I was in your position I would probably feel  
2 the same way. We're going to talk about some of those  
3 changes, okay, in just a moment.

4 I think you indicated in that vein when you were speaking  
5 with Mr. Vital on Friday that you were unaware of some of the  
6 changes that had occurred at City Hall regarding projects that  
7 were within a mile of each other.

8 Do you recall that testimony?

9 A. Right.

10 Q. And you had indicated -- well, you have spoken on several  
11 occasions with the FBI, have you not?

12 A. Yes.

13 Q. In any of those conversations with the FBI did they ever  
14 explain to you those changes that occurred in September of  
09: 21: 57 15 2004 with the City's criteria?

16 A. No.

17 Q. Do you recall them showing you a -- or at least telling  
18 you about a contract that Sheila Hill had with Brian  
19 Potashnik.

20 Do you recall that?

21 A. Yes.

22 Q. Okay. And I believe that your testimony was that changed  
23 everything.

24 Do you recall that?

25 A. (No response.)

09: 22: 27 1 Q. Or that would explain everything?

2 A. Yes.

3 Q. Do you know whether or not this contract with Sheila

4 Farrington-Hill was signed after the decision was made to

5 support Brian Potashnik?

6 A. (No response.)

7 Q. Do you know?

8 A. Do I know?

9 Q. Right. Do you know when it was signed?

10 A. I can't remember what was on the document. I want to say

11 it was five days before. Something like that.

12 Q. You are aware, are you not, that two weeks before this

13 vote that Don Hill was not supporting the Memorial Park

14 Townhomes?

09: 23: 16 15 A. He said he was having problems with it, yes.

16 MR. JACKSON: Well, let's look at -- if we could,

17 look at it. It's already been admitted.

18 Let's look at Reagan 20.

19 BY MR. JACKSON:

20 Q. This is an e-mail from Bill Fisher.

21 Do you see that?

22 A. Yes.

23 Q. To AMC1229. And do you know if that's Allen McGill's

24 e-mail address?

25 A. No.

09: 23: 59 1 Q. Okay. This is dated 10-13-2004.  
2 Do you see that?  
3 A. Yes.  
4 Q. Two weeks before the October 27th vote?  
5 A. What was the question again?  
6 Q. Was it two weeks before the October 27th vote?  
7 A. Yes.  
8 Q. Okay. It reads, "The development appears to be a  
9 none-starter," and he's talking in this case about the Dallas  
10 West Village, "and he met yesterday with Mayor Don Hill," but  
11 Don wasn't the mayor at that time, was he?  
12 A. No. Deputy mayor.  
13 Q. Deputy Mayor Pro Tem?  
14 A. Right.  
09: 24: 37 15 Q. "And he indicated a support for Southwest Housing  
16 development on Scyene."  
17 Do you see that?  
18 A. Yes.  
19 Q. So at least on 10-13 he was aware that -- at least aware  
20 that Don was no longer supporting the Dallas West Village, and  
21 was supporting the Scyene project.  
22 Do you recall?  
23 A. See, I wasn't -- I didn't do a lot on Dallas West  
24 Village. My focus was on the Memorial Park Townhomes.  
25 I had Memorial Park Village Fair and the Simpson Stuart



09: 25: 12 1 project. But there was some things that were done on that,  
2 but that really didn't matter to me at that point.

3 Q. Wouldn't he have found that out at the meeting that you  
4 had at the Original House of Pancakes?

5 A. The meeting at the Original House of Pancakes strictly  
6 talked about Memorial Park.

7 Q. Then let's continue to talk about that.

8 You are aware that developers like Brian Potashnik and  
9 Bill Fisher, they will do different things to curry favor with  
10 politicians?

11 A. (No response.)

12 Q. Are you aware of that?

13 A. No.

14 Q. Well, are you aware that -- obviously that Fisher gave a  
09: 25: 59 15 contract to Fantroy to curry favor? You're aware of that,  
16 aren't you?

17 A. After it happened, yes, but it was -- Leon Backes was the  
18 owner there. So I don't think it was single decision made by  
19 Bill Fisher.

20 Q. Well, do you understand that that was done to curry  
21 favor?

22 A. I don't know why they did it.

23 Q. Well, okay. You understand that at the time Bill Fisher  
24 was opposing -- I mean, that Fantroy was opposing the project?

25 A. Yes.

09: 26: 32 1 Q. Okay. And then after Fantroy was opposing the project he  
2 was given a contract for security?

3 A. Okay.

4 Q. And it's your testimony that that was not done to curry  
5 favor with Fantroy?

6 A. I can see how you could come to that conclusion.

7 Q. Okay. We know that Brian Potashnik gave a contract to  
8 Sheila Hill, right?

9 A. (No response.)

10 Q. You know that now?

11 A. Yes.

12 Q. But what I guess what we need to determine for this jury  
13 is, why did Don Hill decide to start voting and -- on behalf  
14 of Brian Potashnik and not Fisher.

09: 27: 17 15 So when you went through the criteria, and you only went  
16 through some of them with Mr. Vital, the criteria that changed  
17 on September 20, 2004 that was in Brian Potashnik's Exhibit  
18 37, but what you saw was that based on that criteria that if  
19 the City followed its criteria that the votes would have been  
20 exactly as they occurred that day.

21 Do you recall that?

22 A. (No response.)

23 Q. Based on the zoning issues.

24 Do you recall that?

25 A. I'm listening to you.

09: 27: 54 1 Q. Do you remember that?

2 A. I'm trying -- I'm trying to reflect back.

3 Q. Then let's -- if we could --

4 A. You don't have to put up a document or something?

5 Q. We'll do that.

6 MR. JACKSON: Can we put up Brian Potashnik 37.

7 Okay. If we could scroll through the pages, please.

8 Okay. If we can go back one page.

9 I want you to highlight the top portion, please.

10 I want to try --

11 MR. MEACHAM: Object to the repetitive line of

12 questioning. I think this is the fifth time we have covered

13 this line, the second time at least with Ms. Nealy.

14 THE COURT: We will have you move along, Counsel,

09: 28: 38 15 but you may cover this.

16 BY MR. JACKSON:

17 Q. Let me do it real quick, because you said you didn't

18 remember this, so I want to make sure that you remember seeing

19 the document.

20 But on the left side are the DHFC projects which were

21 Brian Potashnik's, and on the right side are the TDHCA

22 projects which were Leon Backes and Bill Fisher.

23 Do you see that?

24 A. Yes.

25 MR. JACKSON: If you could scroll out, please?

09:29:07 1 If we good to the next page.  
2 Next page, please.  
3 Next page.  
4 Okay. Highlight the top portion.  
5 BY MR. JACKSON:  
6 Q. Now, I want you to look at this.  
7 You were shown this, because it shows how the City was  
8 determining how they were going to approve projects within one  
9 mile of each other.  
10 Does you that refresh your memory at all?  
11 A. Yes, it does. Can I explain something?  
12 Q. No. I just wanted to make sure -- it -- it refreshed  
13 your memory.  
14 A. Okay.  
09:29:39 15 Q. Does it refresh your memory?  
16 A. Yes.  
17 Q. Okay. And you learned, did you not, that the City of  
18 Dallas was giving preferences to local bonds, meaning that  
19 bonds that were done by DHFC versus TDHCA bonds.  
20 Do you see that?  
21 A. I see that. But can I explain something? Could I add --  
22 explain?  
23 Q. We're going to go through the question. We only have a  
24 limited amount of time.  
25 So you see that the projects there, that they're --

09: 30: 19 1 they' re given preferences to DHFC over TDHCA.

2 Do you see that?

3 A. But I need to add something to what I'm saying.

4 THE COURT: He's just asking if you see that.

5 A. Yes, I do see that.

6 BY MR. JACKSON:

7 Q. Okay. Do you know why the City of Dallas was giving a  
8 preference to the DHFC bond over TDHCA?

9 A. Do you want my opinion?

10 Q. Well, I -- I -- I mean, if you know. I don't want your  
11 opinion, but if you know.

12 A. Yes. I was going to factor in that the people on the  
13 city staff didn't like Bill Fisher.

14 Q. We'll get to that. We'll get to that in just a minute.

09: 31: 05 15 A. So this was a way to also come up with some criteria to  
16 whereas he would have less points and not be able to get his  
17 projects too.

18 Q. So you think Brian Potashnik had something to do with the  
19 City changing their policies and procedures?

20 A. I know that there was a kind of a dislike of Bill Fisher  
21 at City Hall, and we were challenged with that always.

22 Q. We'll get to the dislike of Bill Fisher.

23 But do you think that Brian Potashnik had anything to do  
24 with the City approving -- or putting a preference over local  
25 bonds versus states bonds?

09: 31: 40 1 A. I don't know how they came to that conclusion.  
2 (Sotto voce discussion between Jackson and Vital.)  
3 MR. JACKSON: Your Honor, I apologize. There was  
4 one exhibit I left off earlier. Brian Potashnik 45, I would  
5 like to offer into evidence.  
6 THE COURT: Any objection to Brian Potashnik 45?  
7 MR. MEACHAM: No, your Honor.  
8 THE COURT: It's admitted.  
9 MR. JACKSON: Thank you, your Honor. I apologize.  
10 If we could get that on the screen.  
11 BY MR. JACKSON:  
12 Q. This is a memo from -- this is a memo to the Housing and  
13 Neighborhood Development Corporation, and a few members of the  
14 council.  
09: 32: 32 15 Do you see that?  
16 A. Yes.  
17 Q. Okay.  
18 MR. JACKSON: If we could go to page -- not -- page  
19 9 of that exhibit, please.  
20 If we could look under the revenue area, please.  
21 BY MR. JACKSON:  
22 Q. Now, it shows here in this memo that the revenue for the  
23 City that they were going to receive through the DHFC, the  
24 City's finance corporation was going to receive \$85,000  
25 through closing, plus an annual fee of 15,000 for a minimum of

09:33:26 1 15 years until the bonds are paid.

2 Do you see that?

3 A. Yes.

4 Q. So that for each project that was using local bonds the  
5 City was going to make a lot of money every year, was it not?

6 A. Yes.

7 MR. JACKSON: Now, if we look on the bottom it shows  
8 that for each -- on the same square. I apologize.

9 BY MR. JACKSON:

10 Q. At the bottom of that square for each project funded  
11 through TDHCA the City receives \$1,500 for due diligence and  
12 \$500 a year for compliance monitoring.

13 Do you see that?

14 A. Yes.

09:34:01 15 Q. That's a significant difference that the City was going  
16 to receive if they went with the local bonds as opposed to the  
17 state bonds.

18 Do you see that?

19 A. Yes.

20 Q. And that would be a good reason why the City was pushing  
21 to approve projects that were having local bonds versus state  
22 bonds.

23 Would you agree with that?

24 A. The City would also get the property tax.

25 Q. Pardon me?

09: 34: 21 1 A. The City would also get the property tax.  
2 Q. Well, we're not talking about the property taxes.  
3 A. Because that's a benefit too.  
4 Q. Hold on. I understand that. But we're not talking about  
5 the property taxes. We're talking about the bonds.  
6 The City has a preference for local bonds because they  
7 were going to get \$100,000 a year, 100,000 -- or 85,000 and  
8 10,000 and 15,000 versus \$1,500 and \$500 a year.  
9 Do you see that?  
10 A. I'm reading.  
11 Q. You indicated earlier that Don started to change or  
12 waiver his support for Bill Fisher on or about October 2004,  
13 right?  
14 A. Yes.  
09: 35: 02 15 Q. He had a lot of questions concerning Bill Fisher's deals,  
16 didn't he?  
17 A. Yes.  
18 Q. Can you tell this jury where those questions were coming  
19 from?  
20 A. He had questions and the staff was asking questions too.  
21 Q. Are you aware of the questions that Don was asking that  
22 he was getting from other council members and staff regarding  
23 Bill Fisher's projects?  
24 A. He asked questions about the financials, and we provided  
25 them. As well as the state decides they have to go through a



09: 35: 36 1 rigorous test because the dollars come from the state and  
2 federal .

3 MR. JACKSON: Your Honor, I object to nonresponsive.

4 THE COURT: Sustained. Just answer the question.

5 BY MR. JACKSON:

6 Q. Are you aware that the questions that Don had he was  
7 getting from other city council members and city staff?

8 A. I was aware of some of them.

9 Q. Okay. Are you aware that Don was trying to get the  
10 answers so he could drum up enough support to get Bill  
11 Fisher's deals passed in spite of the criteria?

12 Are you aware of that?

13 A. Okay.

14 Q. Are you aware of that?

09: 36: 07 15 A. I don't know why he was -- they were asking the  
16 questions. We were just trying to answer the questions.

17 Q. Who is Theresa O'Donnell?

18 A. Director of Planning.

19 Q. In fact, Don called a meeting for Bill Fisher to meet  
20 with her, and talk about that Memorial Park Townhomes, did he  
21 not?

22 A. We did meet with Theresa and Don.

23 Q. You would consider this a proactive move.

24 Would you agree with that?

25 A. We were trying to answer all the questions so that the --

09: 36: 39 1 try to get -- so we could get approval of the project.

2 Q. Don began to bring city staff to the meetings with you

3 and Bill Fisher.

4 Isn't that also correct?

5 A. We always had city staff at meetings. I mean, from time

6 to time.

7 Q. Don began to want to meet with certain contractors that

8 Bill Fisher was going to use, correct?

9 A. Yes.

10 Q. He wanted to know who the real estate agent was going to

11 be to try to help sell the homes that he was proposing?

12 A. Yes.

13 Q. And Don was asking a lot of questions about Bill Fisher's

14 ability to do the development, wasn't he?

09: 37: 15 15 A. Yes.

16 Q. And the concept of the single-family homes that you were

17 going to build, you're aware that Don met with the potential

18 builder?

19 A. We arranged for them to come up.

20 Q. And even after meeting with him the city staff still had

21 questions about whether Bill Fisher could do the deal, right?

22 A. Yes.

23 Q. And Don begin to let you know that some of Bill Fisher's

24 deals were not going to be approved, didn't he?

25 A. Yes, he continued to say that.

09: 37: 52 1 Q. Are you aware that city staff believed that your client,  
2 Bill Fisher, was going to in essence flip that property?  
3 A. No.  
4 Q. Are you aware that Don even took Ryan Evans, who was the  
5 Assistant City Manager, out to the site himself so he could  
6 look at it?  
7 A. No.  
8 Q. Okay. Would it surprise you if Don took Ryan Evans out  
9 there?  
10 A. No.  
11 Q. If he did take Ryan Evans out there, would that be  
12 further evidence that Don was trying to sell your Memorial  
13 Park Townhomes deal?  
14 A. Okay.  
09: 38: 26 15 Q. Would you agree with that?  
16 A. Yes.  
17 Q. And at this time in October 2004 Bill Fisher was no  
18 longer partners with Leon Backes. Is that right?  
19 A. Right.  
20 Q. He was basically in a new partnership?  
21 A. Yes.  
22 Q. And you had known Bill Fisher since -- I guess you had  
23 been working with Bill Fisher since 2002 when he was with  
24 Southwest Housing?  
25 A. Yes.

09: 38: 55 1 Q. So between 2002, 2004 Bill Fisher was in his third  
2 arrangement, was he not?  
3 A. (No response.)  
4 Q. I mean, he went from Southwest Housing, right?  
5 A. (Nodding head up and down.)  
6 Q. To a partnership -- is that right?  
7 A. Yes.  
8 Q. Then he went into the agreement or arrangement that he  
9 started doing business with Leon Backes?  
10 A. Yes.  
11 Q. Then after Leon Backes he was in business with -- is it  
12 Saleem Jafar?  
13 A. They were always together.  
14 Q. So who was he in partners with on the third one?  
09: 39: 27 15 A. (No response.)  
16 Q. He was a partner with Saleem, but not with Leon Backes  
17 anymore, right?  
18 A. Right.  
19 Q. And you -- are you aware that Bill Fisher during this --  
20 Bill Fisher was bouncing \$1,000 checks to city council  
21 persons?  
22 A. I remember one that did happen.  
23 Q. You're aware that Maxine Reese came to you to get her  
24 money, didn't she?  
25 A. She told me about it.

09: 39: 53 1 Q. You would agree that that would probably make the council  
2 people feel pretty well suspicious about your client's ability  
3 to do a deal?  
4 A. But it was corrected.  
5 Q. Well, that's not my question.  
6 Writing thousand dollars checks that are bouncing would  
7 make city council persons uneasy about doing deals with Bill  
8 Fisher.  
9 Would you agree with that?  
10 A. (No response.)  
11 Q. Well, would you accept a check from another person that  
12 gave you a hot check?  
13 A. I would ask them if it's hot or is it good.  
14 Q. And -- and -- and certainly you wouldn't feel easy about  
09: 40: 27 15 giving somebody a bill for \$80,000 when they are writing you  
16 hot checks for 1,000, right?  
17 A. (No response.)  
18 Q. I mean, you want to know that your money is going to be  
19 good, right?  
20 A. Yes.  
21 Q. You would have questions about that?  
22 A. Yes.  
23 Q. Are you also aware that Bill Fisher at this time was  
24 having to live with his -- in one of his attorney's houses  
25 because he had been evicted?

09: 40: 53 1 A. No.

2 Q. Are you aware -- well, you're aware that he didn't pay

3 you all your money, right?

4 A. That's not a yes or no. Can I explain?

5 Q. Well, we'll move forward. You explained that the other

6 day.

7 You understand that Leo Chaney was a big supporter of

8 Brian Potashnik, right?

9 A. Yes.

10 Q. And you are aware that the mayor was a big supporter of

11 Brian Potashnik, right?

12 A. Yes.

13 Q. And you are aware that the mayor didn't like you?

14 A. Yes.

09: 41: 20 15 Q. If she came in here and told people that she did like

16 you, but y'all just didn't talk a lot, that would not be true,

17 would it?

18 A. Professionally. We deal with each other professionally.

19 The reason for the dislike had to do with Tom Dunning. I

20 was supporting Tom Dunning, who ran against her.

21 Q. She didn't like you for that?

22 A. (No response.)

23 Q. Is that a yes?

24 A. Excuse me?

25 Q. The court reporter has to take the answer.

09: 41: 47 1 A. What's the question?

2 Q. I'll withdraw the question.

3 Are you aware that Bill Fisher's former partner, Leon  
4 Backes, told the mayor that your client wasn't able to do the  
5 deal?

6 MR. MEACHAM: Objection to hearsay, what Leon Backes  
7 told anyone.

8 THE COURT: That's sustained.

9 Ladies and gentlemen, you're instructed to disregard the  
10 question.

11 BY MR. JACKSON:

12 Q. You are aware, are you not, that there were serious  
13 concerns about Bill Fisher's financial situation, and there  
14 were concerns -- questions concerning his character coming  
09: 42: 20 15 from city staff?

16 A. Can you explain "character"?

17 Q. Well, what do you think character is?

18 A. I can explain -- they just didn't like Bill Fisher. They  
19 didn't like the way he dressed. I mean, it was really kind of  
20 interesting. I mean, in my opinion.

21 Q. That's fair.

22 A. There were questions -- they went to financial, but he  
23 didn't wear a suit. He just wore a shirt and a pair of  
24 slacks. They didn't like that.

25 You know what I mean?

09: 42: 52 1 Q. I understand.

2 Are you aware that the person over housing, Jerry

3 Killingsworth, didn't trust your client?

4 A. I just became aware that he didn't trust him.

5 Q. Are you aware that he thought that your client was

6 suspicious?

7 A. No.

8 Q. And all over city hall it was rumored that your client,

9 Bill Fisher, did not have the financial wherewithal to do this

10 project, Memorial Park Townhomes.

11 Are you aware of that?

12 A. I heard about the rumor.

13 Q. Do you know what battles on your behalf Don was taking

14 down at city hall with everyone trying to convince them that

09: 43: 28 15 Bill Fisher could do this deal?

16 A. It was on my behalf?

17 Q. Well, when I say "your behalf," I mean your client's

18 behalf, but you were his consultant.

19 Let me ask it a different way.

20 Bill Fisher had an uphill battle at city hall, right?

21 A. Okay.

22 Q. Okay. Don was speaking to you and getting questions

23 answered, right?

24 A. We were all answering questions, yes.

25 Q. Do you know what Don did with those answers once y'all



09: 44: 01 1 gave them to him?

2 A. We had staff that was at some of the meetings. I'm sure

3 he talked to them about it.

4 Q. If he talked to them, do you know what battles he was in

5 fighting on your behalf -- or your client's behalf?

6 A. No.

7 Q. In this situation where the projects are within a mile it

8 wasn't good enough for Don to say I like your project -- or

9 city council say I like your project, they had to like your

10 project -- when I say "your," I'm talking about Bill Fisher --

11 his project more than Southwest Housing because they can only

12 approve one, right?

13 A. Right. As to the rule you can only approve one.

14 Q. The difference with the Homes of Pecan Grove that was

09: 44: 56 15 approved versus the Memorial Townhomes is that the Simpson

16 Villas project had opposition, right?

17 A. (No response.)

18 Q. Do you recall seeing the exhibit from Mr. Vital showing

19 that the Homes of Pecan Grove -- I mean, the Simpson Villas

20 had opposition?

21 Do you recall that?

22 A. Yes.

23 Q. And even with the Simpson Villas having opposition, Don

24 still almost didn't get your Homes of Pecan Grove passed,

25 right?

09: 45: 29 1 A. It was passed.

2 Q. But before it was passed do you recall the mayor going on

3 and on about Bill Fisher's financials and the vote being

4 passed for another day, right?

5 A. (No response.)

6 Q. Do you recall that?

7 A. Can I explain?

8 Q. No. If I don't make my question clear, let me know and

9 I'll re-ask it.

10 A. Okay. Re-ask it.

11 Q. On October 27th Don attempted to get the Homes of Pecan

12 Grove passed, right?

13 A. Yes.

14 Q. On October 27th the mayor went on and on about your

09: 45: 57 15 client's financials?

16 A. Okay.

17 Q. Do you recall that? Do you recall Mitch Rasansky saying

18 to -- about your client's deal, he wanted to know if he was

19 financially able to do the deal?

20 Do you recall that?

21 A. Okay.

22 Q. Because of that the deal wasn't approved on October 27th,

23 the deal was held over.

24 A. Okay.

25 Q. Do you recall that?

09: 46: 16 1 A. Yes.

2 Q. But Don wanted it approved that day?

3 A. Right.

4 Q. So even though there was opposition to the other project,

5 there was still a fight just to get the Homes of Pecan Grove

6 passed?

7 A. Yes.

8 Q. Are you aware that on your Memorial Park Townhomes deal

9 that Bill Fisher had entered into a contract with Reverend

10 Johnson?

11 A. He was talking to Reverend Johnson about doing -- helping

12 with some of the minority vendors, and some other parts of the

13 project.

14 MR. JACKSON: If we could have Brian Potashnik

09: 47: 04 15 Exhibit 299, please. It's been admitted into evidence.

16 BY MR. JACKSON:

17 Q. This is an e-mail from Bill Fisher to Reverend Johnson.

18 Do you see that?

19 A. Yes.

20 Q. And he says, "Here's an agreement on the Laurel and site

21 on Camp Wisdom. "

22 And the Laurel and site on Camp Wisdom would be the

23 Memorial Park Townhomes, right?

24 A. Yes.

25 MR. JACKSON: If we can go to page 2 of that

09: 47: 27 1

exhi bi t.

2

Okay. And if we could have the whole exhi bi t, please.

3

Go to page 3.

4

BY MR. JACKSON:

5

Q. Okay. And this is where Bill Fisher starts to talk to

6

Mr. Johnson about compensation, and he is going to pay him

7

\$50,000, do you see that, the total compensation?

8

A. Yes.

9

Q. And as part of that he's going to get -- if you look

10

under -- under point two, he's going to use his best efforts

11

to obtain a letter of support from Royce West.

12

Do you see that?

13

A. Okay.

14

Q. And so he was -- he was -- he was getting ready to -- or

09: 48: 19 15

entered into an agreement, or contemplated an agreement with

16

Reverend Johnson on the same Memorial Park Townhomes that you

17

were already a consultant on, right?

18

A. Yes. But this was different.

19

Q. But you could have gotten the support from Royce West,

20

couldn't you, a support letter?

21

A. A support letter, yes. But this was -- these dollars are

22

totally different, and it's not like what my agreement was.

23

Q. I understand.

24

A. Mine was different.

25

Q. But he's -- he's -- he's going into an agreement with

09: 48: 53 1 Reverend Johnson, and you as his consultant may not have known  
2 that.

3 A. He said he was going to use Reverend Johnson for the CDC.  
4 He did say that. I hadn't seen the document, but he did say  
5 he was going to be using Reverend Johnson, because he was  
6 going to some of the meetings.

7 MR. JACKSON: Let's go to Brian Potashnik Exhibit 3,  
8 please.

9 BY MR. JACKSON:

10 Q. Before we get to that, let me ask you this.

11 We were talking earlier -- I asked you about some of the  
12 battles that Don was taking on your behalf -- on your client's  
13 behalf.

14 I want to show you.

09: 49: 49 15 MR. JACKSON: I'll use the Elmo, if I can, please.

16 BY MR. JACKSON:

17 Q. A transcript from Government's Exhibit 5414. Okay. This  
18 is a recorded conversation between D'Angelo Lee and your  
19 client, Bill Fisher.

20 And on page 22 of 73, if we start on page 15 -- I mean,  
21 on line 15.

22 Do you see that?

23 A. Okay.

24 Q. It says, "Laura did not want any of the tax credit stuff  
25 done. She fought us on every way. She got the teams behind

09: 50: 40 1 the scene fighting the financials and fighting the entire  
2 process. She essentially said, and you knew this, she said  
3 there were -- there was going to be no tax credit deals done  
4 this year. She literally made that statement. She said --  
5 she said that she would fight everything that comes. It's  
6 been -- I mean, I tell people I can show you the battle  
7 wounds."

8 Do you see that?

9 A. Yes.

10 Q. So back in reference to the wars that Don was fighting on  
11 your behalf, but you said you wasn't aware of any of that, you  
12 didn't know?

13 A. You said me.

14 Q. Well, when I said you, I mean on behalf --

09: 51: 27 15 A. We had -- there was a whole discussion about tax credit  
16 deals in the Southern Sector period, and Laura was against tax  
17 credit properties, period.

18 Q. But you know that Laura voted for Scyene and Laurel and  
19 deals for Brian Potashnik?

20 A. Yes.

21 Q. Okay. So when I talked about you -- let me ask you this  
22 way.

23 You and Don have a personal relationship, don't you?

24 A. Uh-huh.

25 Q. Don respects you a lot, doesn't he?

09: 51: 56 1 A. Yes.

2 Q. Respects your counsel?

3 A. Yes.

4 Q. Probably respects you a lot more than he respected Bill

5 Fisher.

6 So when I say that he is working on your behalf, I'm

7 saying that you have influence with Don, right?

8 A. (No response.)

9 Q. That's part of that leverage you talk about?

10 A. Okay.

11 Q. Right?

12 A. (No response.)

13 Q. You agree with that?

14 A. Okay.

09: 52: 15 15 Q. Do you agree with that?

16 A. Okay.

17 Q. Well, I don't know what "okay" means.

18 A. Okay, yes.

19 Q. Okay. So if he's fighting -- if he's fighting, then he's

20 fighting to support something that you're doing. Maybe not

21 necessarily Bill Fisher.

22 Would you agree with that?

23 A. He liked the project. Also, -- I mean, when you talk

24 about that leverage, I also try to bring quality projects to

25 the table. People generally go along with me for that,

09: 52: 44 1 because of what I bring to the table as projects. It's not  
2 just about me.

3 Q. Well, let me -- you and Don, y'all eat dinner together,  
4 right?

5 A. Sure.

6 Q. You had good times at sporting events?

7 A. Sure.

8 Q. So -- I mean, you could come to his office whenever you  
9 wanted to?

10 A. I scheduled an appointment.

11 Q. But any time you called, you can get in?

12 A. I can get in just like anybody's office.

13 Q. So when -- when -- when it comes Kathy Nealy, you have  
14 political pull or leverage, do you not?

09: 53: 17 15 A. We're trying to have a good business.

16 Q. I understand that.

17 So if you go into the building and you are asking Don to  
18 do something -- and we won't use Steinke as an example, but  
19 anybody else may not be able to get in the door so quick, or  
20 get something done like you, and that's from years of  
21 experience.

22 Do you agree with that?

23 A. Okay. Sure.

24 MR. JACKSON: Okay. Let's go to Brian Potashnik  
25 Exhibit 310, please.



09: 53: 51

1

I think we admitted it earlier.

2

If it's not admitted, we would ask that we admit Brian Potashnik 310.

4

THE COURT: It is.

5

MR. JACKSON: Okay. If we can go to page 3 of this exhibit, please.

7

BY MR. JACKSON:

8

Q. This is City Plan Commission on Laurel and, Memorial Park. Do you see that as the owner?

9

10

A. Yes.

11

Q. Would that be the Bill Fisher deal?

12

A. Yes.

13

Q. And you see right here it already has that the staff recommendation is denial, right?

14

09: 54: 36

15

A. Yes.

16

Q. Okay.

17

MR. JACKSON: If we could go to page 5 of that exhibit.

18

19

Highlight under staff analysis.

20

Okay. The third paragraph here.

21

BY MR. JACKSON:

22

Q. "Staff is concerned about the amount of undeveloped land that is zoned for multi-family uses in the area, and adjacency issues as it relates to the location of the proposed multi-family uses to an existing single-family uses. The

24

25

09: 55: 08 1 applicant proposes a 20 foot set backup -- building setback is  
2 not an adequate distance to buffer and/or screen the adjacent  
3 family developments. "

4 Do you see that?

5 A. Yes.

6 MR. JACKSON: If we can scroll down some more,  
7 please.

8 BY MR. JACKSON:

9 Q. "The City zoning map reveals that there are several  
10 tracts of undeveloped land in the areas that are zoned for  
11 multi-family. Staff believes that the applicant could  
12 construct their multi-family projects in these existing  
13 multi-family districts without rezoning. "

14 So you understand that the staff and the people at the  
09: 55: 47 15 City believed that instead of taking single-family zoning and  
16 putting multi-family housing, that y'all could use other land  
17 that's close or adjacent to it and do the project without the  
18 need for rezoning?

19 A. Staff always disagrees. I mean, we go back and forth  
20 with them denying for various reason. This was -- he had  
21 already worked out an arrangement regarding the land, to  
22 purchase the land.

23 Q. Well, I understand that, but my question is, was that an  
24 initial concern already brought from the staff?

25 A. Well, we were working through the land. That's why it

09: 56: 25 1 became so expensive on this project, because they did  
2 infrastructure, so Bill had to have various engineers go out,  
3 and as far as the architects and just really take a look at  
4 all those logistics involved.  
5 Q. So was that a yes?  
6 A. I don't know the question.  
7 Q. Let me ask the question again.  
8 A. Okay. Ask the question again.  
9 Q. It was clear that the city staff already had concerns  
10 about the use of the property?  
11 A. Yes.  
12 Q. Okay. Thank you.  
13 At the end of the day Bill Fisher got exactly what he was  
14 hoping for, didn't he?  
09: 57: 01 15 A. No.  
16 MR. JACKSON: Okay. Well, let's look at Brian  
17 Potashnik 54, which I think is already admitted into evidence.  
18 If we highlight that bottom half right there.  
19 BY MR. JACKSON:  
20 Q. Bill Fisher says, "Here is how I would like to ask -- to  
21 seek a consensus on the project. Village Fair to Leon Backes.  
22 Southwest Housing would get Cherrycrest Villas, Scyene and  
23 Laurel and."  
24 Right?  
25 A. Bill Fisher was trying all --

09: 57: 31 1 Q. No. My question is, is that what he has right here?  
2 A. This is one of his suggestions, yes.  
3 Q. That's what happened, right?  
4 A. (No response.)  
5 Q. As far as Laurel and goes -- as far as Southwest Housing?  
6 They got Cherrycrest, Scyene and Laurel and?  
7 A. You're talking about -- I mean, I wasn't really focusing  
8 on Southwest Housing because they were a competitor of ours.  
9 Q. Then -- and on --  
10 A. I can speak for Village Fair and --  
11 Q. And Bill Fisher got Homes of Pecan Grove and Dallas West  
12 Village, did he not?  
13 A. At the time of this memo, no.  
14 Q. Eventually Bill Fisher got what he was hoping to get by  
09: 58: 15 15 getting Pecan Groves?  
16 A. Eventually, yes.  
17 THE COURT: Stop.  
18 MR. MEACHAM: There were two votes for Dallas West  
19 Village pending, a tax credit vote --  
20 THE COURT: What's the legal objection?  
21 MR. MEACHAM: The question is misleading.  
22 THE COURT: Overruled.  
23 BY MR. JACKSON:  
24 Q. We have seen evidence that Dallas West Village was passed  
25 on May 11th.

09: 58: 36 1 Were you there? Do you know?

2 A. No.

3 Q. Based on the City's criteria that Mr. Vital went through  
4 with you, and some of which I went through with you, can you  
5 tell this jury if Don Hill made his decision to vote for  
6 Laurel and for Potashnik -- scratch that.

7 Based on the criteria that we have shown you -- that I  
8 went over with you today, and Mr. Vital went over with you on  
9 Friday, can you tell this jury if Don made a decision to vote  
10 in support of Southwest Housing over Bill Fisher for any  
11 reason other than the City's criteria?

12 A. I can't answer that.

13 Q. Okay. Well, that's what this jury --

14 A. No. No. Because he wasn't -- Southwest Housing wasn't  
09: 59: 36 15 each an issue in our conversations.

16 Q. But my question is, after the September 20th -- after  
17 September 20th when the criteria changed at the City of  
18 Dallas, do you know whether Don Hill voted in support of  
19 Southwest Housing because of the City criteria?

20 A. No.

21 Q. So you don't know why he voted that way?

22 A. No.

23 Q. If he voted based on the City's criteria, then he was in  
24 line with what the City wanted, right?

25 A. (No response.)

10:00:06 1 The City wanted more money on the local bonds, right?

2 A. (No response.)

3 Q. That was their preference, right?

4 A. Is that a question?

5 Q. Yeah, it was a question.

6 A. What's the question?

7 Q. The City wanted more money because they were going to

8 get --

9 A. I don't know. That came up in a meeting that was not

10 part of the discussion anymore.

11 Q. So --

12 A. I can't follow what you are saying.

13 Q. Well, what I'm saying is, there are things happening at

14 the City that you don't know about?

10:00:37 15 A. Well, how can I say yes or no to that?

16 Q. Well, but -- so what I'm just trying to figure out for

17 this jury is that you're not saying that it happened a certain

18 way?

19 A. (No response.)

20 Q. I mean, if you --

21 A. That was not a part of -- the criteria was not a part of

22 discussions that we had.

23 Q. All right. Fair enough.

24 You indicated on direct that you didn't know that Don was

25 meeting with Brian Potashnik, right?

10:01:00 1 A. Yes.

2 Q. Is there some legal obligation that Don has to tell you

3 about everybody that he's meeting with at city hall?

4 A. No.

5 Q. If Potashnik -- who is also trying to get his deal done,

6 wanted to meet with Don Hill, he can do that, can't he?

7 A. Yes.

8 MR. JACKSON: If we could see Government's Exhibit

9 668, page 231, please Ms. Christensen.

10 If you would highlight the 1:30 time frame.

11 BY MR. JACKSON:

12 Q. You were asked whether you knew that Darren Reagan was

13 meeting with Don Hill.

14 Do you recall that question?

10:01:40 15 A. Yes.

16 Q. Okay. You would agree with me that you're not the only

17 person in Southern Dallas who has leverage with public

18 officials?

19 A. Yes.

20 Q. And Darren Reagan would have some leverage, wouldn't he?

21 A. Yes.

22 Q. And he's been around almost as long as you, I guess, in

23 the Dallas political scene?

24 A. Yes.

25 Q. And he knows, like you, a lot of public officials from

10:02:07 1 Southern Dallas?

2 A. Yes.

3 Q. What did Don and Darren Reagan meet about?

4 A. I don't know.

5 Q. Okay. I just wanted to make sure that we are not

6 suggesting anything to the jury.

7 MR. JACKSON: May we have Government's Exhibit

8 2024, please, Mr. Christensen.

9 BY MR. JACKSON:

10 Q. This is the exhibit that -- I believe that you said that

11 you provided to the government?

12 A. Yes.

13 Q. This is your actual file from your office?

14 A. Yes.

10:02:37 15 Can I explain?

16 Q. No. I just wanted to make sure it was your file.

17 MR. JACKSON: If we can go to page 16 of this

18 document.

19 Highlight consulting services down here.

20 BY MR. JACKSON:

21 Q. This is an invoice from you to Provident Realty. Is that

22 right?

23 A. Yes.

24 Q. For your detail here, all that you put is 45 and

25 Laurel and 39 and Simpson Stuart, right?



10:03:07 1 A. Oh, but there is also be another document that explains  
2 some of the meetings.  
3 Q. Well, on your invoice that you have that's all that's on  
4 there, right?  
5 A. That's all that's on this particular document right here.  
6 MR. JACKSON: If we can go to page 22.  
7 And if we highlight this.  
8 BY MR. JACKSON:  
9 Q. Odyssey Residential Holdings. We see there that you  
10 received a success fee for Pecan Grove?  
11 A. Okay.  
12 Q. \$20,000?  
13 A. Uh-huh.  
14 THE COURT: Excuse me. Say yes or no.  
10:03:40 15 A. Yes.  
16 MR. JACKSON: If we can go to page 24.  
17 BY MR. JACKSON:  
18 Q. This was a meeting that you had on West Village, I guess,  
19 with Don Hill being involved? Or at least he came and left?  
20 A. Yes.  
21 MR. JACKSON: Page 25.  
22 BY MR. JACKSON:  
23 Q. Here's an invoice for \$20,000, and on the invoice the  
24 only things you put on here are the hours and what project,  
25 right?

10:04:12 1 A. As I said, there is some backup information that goes --  
2 sir, may I explain?  
3 Q. No, ma'am.  
4 THE COURT: All right. Just answer the question,  
5 please.  
6 BY MR. JACKSON:  
7 Q. That's what on your invoice?  
8 A. That's what's on a portion of the invoice.  
9 Q. This is in the document that you provided the government,  
10 right?  
11 A. I guess.  
12 MR. JACKSON: Okay. Well, let's look at page 36.  
13 If we can start on page 2 of that exhibit.  
14 I mean -- I'm sorry. 37.  
10:04:47 15 BY MR. JACKSON:  
16 Q. It starts as -- these are e-mails, it's from Laura Brown,  
17 and Laura Brown, does she work for you?  
18 A. No.  
19 Q. Does she work for Bill Fisher?  
20 A. Yes.  
21 Q. Okay. She received a message today from Toni -- and Toni  
22 is with your office, right?  
23 A. Yes.  
24 Q. She wants to know what time a courier can pick up a check  
25 for \$7,500, and she knows nothing about the check, right?

10:05:10 1 A. Okay.

2 MR. JACKSON: If we can go back to page 36.

3 Highlight the bottom half.

4 BY MR. JACKSON:

5 Q. This is from Bill Fisher to Laura Brown, Saleem Jafar and

6 Belinda Carmikle. And it says that you have -- that, "She" --

7 Kathy Nealy -- "has outstanding bills to us for about 60,000."

8 Do you see that?

9 A. Yes.

10 Q. "We need to start sending her something on these

11 accounts. She's not owed zero."

12 A. Yes.

13 Q. "I have discussed the possibility of a substantial

14 billing adjustment form, a review for her bills. My hands are

10:05:42 15 tied in doing this until I get her bills per project from

16 September '04 to current to compare in contrast to charges for

17 each month on each account. The analysis has been raised

18 before, and is the only ability we will have to cut these

19 bills back."

20 Do you see that?

21 A. Yes.

22 MR. JACKSON: Okay. Now, if we can go to page 39 of

23 this exhibit.

24 And if we can highlight where the handwritten parts

25 start.

10:06:12 1 BY MR. JACKSON:

2 Q. This is -- this is a -- was this created from your  
3 company, Kathy Nealy & Associates, the initial billing part of  
4 it?

5 A. I don't do the billing. Toni Bryant does the billing,  
6 who is my daughter. I don't think that this is my document,  
7 though. But my daughter does all the billing. All I do is  
8 just tell her what the hours are.

9 Q. This is a document that reflects the -- the --

10 MR. JACKSON: Let's pan back out, please.

11 BY MR. JACKSON:

12 Q. Does it reflect the items you were working on, the number  
13 of hours you were working on the date of invoice, the amount  
14 due?

10:06:49 15 A. Yes.

16 MR. JACKSON: Okay. Now, if we can highlight again  
17 the handwritten portion.

18 BY MR. JACKSON:

19 Q. One month you have 196 hours, it looks like on the first  
20 line, and it's equated to 9.8 hours a day for 20 days, and at  
21 the back half of that it says "impossible."

22 Do you see that?

23 A. Okay.

24 Q. And below that you will see 178 hours, which equals 8.9  
25 hours that you are saying you are working on this project a

10:07:20 1 day for 20 days, and at the back of that it says "not  
2 credi ble. "  
3 A. Whatever.  
4 Q. Okay.  
5 A. My work was my work. I work seven days a week 24 hours a  
6 day, you know.  
7 Q. Exactly.  
8 A. All -- you know, when you send in all bills, I put in  
9 what my hours are. What they put out is fine. What they  
10 discuss is fine. I know what they owe me.  
11 Q. There you go.  
12 And when you submit your billing and when you do your  
13 work, you're doing the work?  
14 A. Yes.  
10:07:49 15 Q. Regardless of what they think about it?  
16 A. That's correct.  
17 Q. Very good.  
18 You mentioned at the time that Bill Fisher's deals were  
19 not approved, and he had paid out between 3 and 400,000, is  
20 that what you said, based upon the pre-development costs?  
21 A. Uh-huh.  
22 THE COURT: Say yes or no.  
23 A. Yes.  
24 BY MR. JACKSON:  
25 Q. On the Southwest Housing deal that they lost, the Simpson

10:08:12 1 Villas, how much are they paid in development costs?  
2 A. Who? Southwest Housing?  
3 Q. Yes.  
4 A. I didn't do Southwest Housing.  
5 Q. I understand. So you don't know how much -- they lost  
6 that deal, how much had they paid in development costs?  
7 A. I have no idea.  
8 Q. And this was your first -- well, this may have been your  
9 first or second time dealing with a case from start to finish  
10 in this type of tax credit case?  
11 A. Right.  
12 Q. Can you tell this jury whether or not 3 or 400,000 may be  
13 risk of doing these deals when you are going head to head,  
14 because when you go head to head somebody has got to lose,  
10:08:48 15 right?  
16 A. But this one is different. The cost on this one was  
17 different.  
18 Q. But you don't know what the cost was on Simpson Villas,  
19 right?  
20 A. No.  
21 Q. So what I'm asking you is, have you done enough of these  
22 to know whether or not when these two deals are going head to  
23 head obviously -- well, let me ask you this.  
24 Obviously to get this thing from start to being approved  
25 there are pre-development costs, right?

- 10:09:12 1 A. Yes, there is pre-development costs.
- 2 Q. They have got to pay people like you, they have got to
- 3 pay engineers and other people working on some of the initial
- 4 infrastructure, right?
- 5 A. Right.
- 6 Q. You're not saying that on the deals that Brian Potashnik
- 7 lost, that he wasn't paying the same thing?
- 8 A. This was about townhomes and single-family homes. The
- 9 other projects are multi-family projects.
- 10 Q. My question is, how much had Brian Potashnik spent?
- 11 A. I don't know what Brian Potashnik spent.
- 12 Q. So if he spent 3 to \$400,000, then he would be in the
- 13 same position that Bill Fisher was in when he lost his deal?
- 14 A. Okay.
- 10:09:52 15 Q. Isn't it true that it's common for African-American
- 16 council persons to suggest developers who are also
- 17 African-Americans to work on those contracts?
- 18 A. You can give them -- provide them a list. You're not
- 19 supposed to say this -- choose this person.
- 20 Q. Right. But my question is, isn't it true -- or is it
- 21 true that it's common for them to ask that developers use
- 22 African-American contractors?
- 23 A. Yes.
- 24 Q. And isn't it a reality of doing business in the Southern
- 25 Sector of Dallas that the people of the community would rather

10: 10: 24 1 see individuals who resemble the community?

2 A. True.

3 Q. Isn't it true that historically -- scratch that.

4 Don wanted to make sure there was minority participation,

5 didn't he?

6 A. Yes.

7 Q. And you have known him for a while, and he's always been

8 that way, hasn't he?

9 A. Yes.

10 Q. And as you said, that's not uncommon for the Southern

11 Sector?

12 A. Right.

13 Q. It's not uncommon or illegal for people in the Southern

14 Sector to recommend different minority or African-American

10: 10: 58 15 contractors?

16 A. Right.

17 Q. Did Don ever tell you that unless you use a particular

18 contractor, your deals wasn't going to get passed?

19 A. Not with me, no.

20 Q. Isn't it true that in your role as a consultant your

21 client sometimes would ask you -- or request from you a

22 minority vendor list?

23 A. Yes.

24 Q. What is a minority vendor list?

25 A. The City of Dallas has a list of minority vendors. Many



10: 11: 30 1 times during city projects you have to be registered with the  
2 North Texas Counsel of Governments, who also has a list.  
3 Q. When you're doing business in the Southern Sector of  
4 Dallas, what type of minorities are they looking for?  
5 A. They range from black, brown, women.  
6 Q. I know what minorities range from, but what are they  
7 asking you to do?  
8 When you are working in the Southern Sector they're  
9 wanting you to utilize African-American contractors. Is that  
10 correct?  
11 A. They're not specifically saying that, no, sir. They say  
12 minorities. When we say minorities, that covers a whole  
13 group.  
14 Q. When -- when -- let me ask you this, because you  
10: 12: 14 15 understand that --  
16 A. Because of -- remember now the council districts reflect  
17 black and brown. I mean, you can't -- I mean, it's a  
18 combination of both.  
19 Q. Well, let me ask you this, because you have been  
20 recommended -- or contractors are recommended by other public  
21 officials like Royce West, right?  
22 A. Okay.  
23 Q. Right?  
24 A. Uh-huh.  
25 Q. John Wiley Price, right?

10: 12: 38 1 A. Yes.

2 Q. And while there may be instances where the word -- let me

3 scratch that.

4 Do you know the particular vendors that Royce West

5 generally recommended?

6 A. No.

7 Q. Do you recall giving that information when you were

8 talking to the FBI?

9 A. About Royce West?

10 Q. Right. The particular vendors that he would recommend?

11 A. No, I don't know.

12 Q. When asked by Bill Fisher for security companies you gave

13 him two names, right?

14 A. Yes.

10: 13: 17 15 Q. Who were they?

16 A. Mr. Vilaal and Mr. Fantroy.

17 Q. What race is Vilaal?

18 A. Both of them are black.

19 THE REPORTER: Could you repeat that?

20 THE WITNESS: James Fantroy.

21 THE COURT: No, the other one.

22 THE WITNESS: Vilaal, V-I-L-A-A-L.

23 BY MR. JACKSON:

24 Q. Isn't it true, Ms. Nealy, that you have been accused of

25 being a recipient of a consulting contract of an elected

10: 13: 45 1 official forcing developers to use you in the Inland Port  
2 development?

3 A. No.

4 Q. That has not been accused?

5 A. No. I haven't heard that.

6 Q. Now, what is Mayor Miller's track record for economic  
7 development in the Southern Sector?

8 MR. MEACHAM: Objection to relevance.

9 THE COURT: Sustained.

10 BY MR. JACKSON:

11 Q. You understand -- you know what the Southwest Center Mall  
12 is -- area, right?

13 A. Yes.

14 Q. Well, has Laura Miller developed the Southwest Center  
10: 14: 13 15 Mall?

16 MR. MEACHAM: Same objection.

17 THE COURT: That's overruled. You may answer.

18 BY MR. JACKSON:

19 Q. Has Laura Miller developed did any economic development  
20 at Southwest Center Mall?

21 A. The developer that went in -- it was actually General  
22 Mills, because it was -- Leon Backes looked at Southwest  
23 Center Mall. But, again, General Mills out of Chicago --

24 THE COURT: Do you mean General Growth?

25 THE WITNESS: Did I say that wrong?

10: 14: 46 1

THE COURT: Yes.

2

A. General Growth out of Chicago, yes.

3

BY MR. JACKSON:

4

Q. Has there been any development to this day?

5

A. Southwest Center Mall, no.

6

Q. When Laura Miller confronted Bill Fisher at the city council meeting that you talked about, did you feel like her actions were personal?

9

A. Yes.

10

Q. Do you believe she had an agenda?

11

A. It was obvious she didn't like Bill Fisher.

12

Q. Were you present at the library when she attacked your client, Bill Fisher?

14

A. Yes.

10: 15: 27 15

Q. In your opinion was that personal, that attack?

16

A. Yes, it was personal.

17

Q. Do you believe that she brought the media -- in your opinion she brought the media to the meeting. Is that right?

19

A. I don't know if she brought the media. The media was there.

21

Q. Do you know that the federal lien that -- well, do you recall that she utilized the fact that your client had a federal tax lien, right?

24

A. Yes.

25

Q. Do you know that that information -- that tax lien was

10: 15: 57 1 given to her by your client's biggest competitor, Southwest  
2 Housi ng?  
3 A. He told us that.  
4 Q. Who told you that?  
5 A. Bill Fisher.  
6 Q. Told you that Potashnik gave it to her?  
7 A. Oh, yes.  
8 Q. Do you know that Laura Miller was meeting with Brian  
9 Potashnik about your client and getting dirt on him?  
10 A. No. I know that Bill Fisher kept saying that -- from  
11 different times that Laura Miller got that information from  
12 Brian Potashnik.  
13 Q. Are you aware that Brian Potashnik was Laura Miller's  
14 biggest supporter, wasn't he, or one of them?  
10: 16: 30 15 A. He was one of her supporters.  
16 Q. Bill Fisher worked for Brian Potashnik before he left the  
17 company, right?  
18 A. Yes.  
19 Q. And Brian Potashnik was very upset about Bill Fisher  
20 leaving his company, wasn't he?  
21 A. I'm not sure. I guess.  
22 THE COURT: All right. Let's move along, Counsel.  
23 BY MR. JACKSON:  
24 Q. Are you aware of an incident that took place between  
25 Brian Potashnik and Fantroy at city hall?

10: 16: 57 1 A. I heard about one.

2 Q. Okay. Are you aware that Brian Potashnik was trying to

3 use the security contracts to make Fantroy vote in his favor?

4 A. Now, that is hearsay that y'all are talking about.

5 Q. Well, if you don't know --

6 A. (Laughter.)

7 Q. You know Brian Potashnik, you have worked with him

8 through MasterPlan, correct?

9 A. Yes.

10 Q. Was he afraid or timid when it came to dealing with

11 minority council persons?

12 A. No, he spoke up to whoever he was speaking to.

13 Q. In your opinion, was he worried or concerned about

14 upsetting a minority council member?

10: 17: 45 15 A. I have no idea -- I mean, I wasn't around Brian Potashnik

16 that much.

17 Q. At some point Darren Reagan sent a letter opposing

18 multi-family development in the Southern Sector.

19 Do you recall testifying about that?

20 A. Now, what now?

21 Q. That Darren Reagan sent a letter on behalf of BSEAT

22 opposing multi-family development in the Southern Sector?

23 A. Yes.

24 Q. You were advised to meet with Mr. Reagan not only by Don

25 Hill, but by Leo Chaney and Fantroy as well, correct?

10: 18: 32 1 A. Yes.

2 Q. And you are aware that Darren Reagan had the ability to

3 mobilize hundreds of people when he needed to, right, for a

4 march or for a picket?

5 A. 100?

6 Q. Right.

7 A. I don't know about hundreds. He was able to get people.

8 Q. Okay. You actually met with Darren Reagan and Allen

9 McGill at the Pappadeaux, right?

10 A. Yes.

11 Q. Isn't it true that during the meeting with Darren Reagan

12 that he emphasized he wanted to support mixed-use development

13 with a retail component?

14 A. Yes.

10: 19: 07 15 THE COURT: Counsel, how much longer do you have

16 with the witness, please?

17 MR. JACKSON: I have three pages of notes. So --

18 THE COURT: Translate that.

19 MR. JACKSON: About ten minutes.

20 THE COURT: All right. Who else has examination?

21 Anyone?

22 (No response.)

23 THE COURT: We'll go ahead and take our 15-minute

24 recess now, ladies and gentlemen.

25 MR. WILLIAMS: All rise for the jury.

10: 20: 20 1 (Jury retired from the courtroom.)  
2 (Brief recess.)  
3 THE COURT: All right. Be seated.  
4 THE COURT: All right. Mr. Jackson, I have got my  
5 clock on you.  
6 MR. JACKSON: We're synchronized.  
7 THE COURT: You just wasted about 15 seconds.  
8 BY MR. JACKSON:  
9 Q. Isn't it a fact that while you were meeting with -- while  
10 Bill Fisher was meeting with Mr. Reagan at Pappadeaux that it  
11 was Bill Fisher who recommended that Mr. Reagan work on the  
12 Dallas West Village?  
13 A. What do you mean?  
14 Q. Well, who brought up the idea of Mr. Reagan working on  
10: 38: 01 15 the Dallas West Villas (sic)?  
16 A. The way that I -- I mean, can I explain?  
17 Q. Who recommended it?  
18 A. There was conversation about retail and Bill Fisher said  
19 the project that he had that had retail on it was the one that  
20 was Dallas West Village.  
21 Q. Okay. And you didn't ask him to do that, did you?  
22 A. No.  
23 Q. And Don never instructed you to meet with Darren Reagan  
24 and enter into a contract with him, did he?  
25 A. No, not enter into a contract.



10: 38: 47 1 Q. And he's never asked you to meet with anybody and enter  
2 into a contract, has he?  
3 A. No.  
4 Q. You testified that you told Don about D'Angelo Lee. Is  
5 that right?  
6 A. Yes.  
7 Q. And I believe that you told Don that D'Angelo shouldn't  
8 talk about his own developments when he's meeting with another  
9 development, correct?  
10 A. We had many discussions. That was one of them.  
11 Q. In fact, basically what you were saying was he needed to  
12 know which hat he's wearing?  
13 A. In that respect for that time because he was going over  
14 the line.  
10: 39: 28 15 Q. And isn't it true that Don agreed with you that D'Angelo  
16 needed to know what hat he was wearing?  
17 A. Not at first.  
18 MR. JACKSON: Let's play, if we could, on  
19 Mr. Mureen's computer Sheila Hill 6761, about 15 seconds of  
20 that.  
21 A. What?  
22 (Audiotape clip, SHX 6761 played.)  
23 BY MR. JACKSON:  
24 Q. Okay. Is that when he agreed with you on D'Angelo  
25 knowing which hat he should be wearing?

10: 40: 24 1 A. This is way after -- I mean, this is 2005. We started  
2 these conversations of me talking to him in 2004.  
3 Q. That ain't my question.  
4 On that question he agreed with you that he needed to  
5 know which hat he was wearing?  
6 A. Okay.  
7 Q. Is that a yes?  
8 A. What was the question?  
9 Q. In that conversation he just agreed with you he needed to  
10 know which hat he was wearing?  
11 A. Yes.  
12 Q. This birthday party that you were talking about, you said  
13 that you talked about campaign limits.  
14 Do you recall that?  
10: 40: 57 15 A. Yes.  
16 MR. JACKSON: If we could see Sheila Hill Exhibit  
17 Number 10, please, Ms. Christensen.  
18 And if we can go to the next page, please.  
19 BY MR. JACKSON:  
20 Q. Have you ever seen this agreement here from the -- it's a  
21 professional services agreement from the Myriad Group, who was  
22 hosting -- or putting on this party for Don Hill?  
23 A. No.  
24 Q. Are you aware that they were an event planner for that?  
25 A. No.

10: 41: 36 1 Q. Are you aware that all the money that was collected from  
2 people who were sponsoring this party went to pay this event  
3 planner?  
4 A. No.  
5 Q. Are you aware that none of the money that was given to  
6 sponsor this party went to Don Hill?  
7 A. That needs to be explained.  
8 Q. Well, my question is simple.  
9 A. Because they were asking for money for Don Hill's  
10 birthday party, not about the event planner. That was the  
11 discussion that I had with D'Angelo and others.  
12 Q. Well, it was going for his birthday party.  
13 Do you know if any of the money went to Don Hill?  
14 A. I was not trying to be a part of any of that.  
10: 42: 18 15 Q. I understand.  
16 A. I don't know where the money went.  
17 Q. But you talked about campaign contribution limits.  
18 A. Because he was asking -- number one, we were in the midst  
19 of issues being before the council, and we were -- and he was  
20 also trying -- the amount that he was trying to ask for was  
21 \$2,500 up. That is -- there was a problem with that. That's  
22 what I was explaining.  
23 Q. What I'm asking -- and I hear what you are saying.  
24 What I'm asking you about is when you made a statement to  
25 this jury about being over a campaign contribution amount,

10: 42: 52 1 what I'm asking you is if none of the money goes to a campaign  
2 candi date, it's not considered a campaign contri buti on if it's  
3 for hi s birth day party.

4 A. Sir, they didn't need to be giving at all, not my  
5 clients. You can't do that.

6 Q. Well, that's di fferent because you're changing it a  
7 little bi t.

8 I'm not asking you whether or not it was good for you to  
9 advise your client to give or not. What I'm going to is  
10 whether or not you -- whether or not it was against the law  
11 for somebody to contribute as a sponsor to a birthday party  
12 and --

13 A. In my opinion it was wrong.

14 MR. MEACHAM: Object on the grounds that it calls  
10: 43: 30 15 for a legal concl usi on.

16 THE COURT: Overrul ed.

17 BY MR. JACKSON:

18 Q. Now, you -- you -- you indicated that you were introduced  
19 to MasterPlan from Forrest Smi th?

20 A. No, that's not what I said.

21 Q. Okay. Who did Forrest Smi th introduce you to?

22 A. Leon Backes.

23 Q. Are you aware of whether or not it was -- whether or not  
24 Forrest Smi th came to Don Hill and he recommended you?

25 A. No.

10: 44: 01 1 Q. So it could be that you got involved in all of this with  
2 Leon Backes and everything else because of a recommendation  
3 from Mr. Donald Hill?  
4 A. I don't know.  
5 Q. When you talk about that Memorial Park Townhomes site,  
6 Bill Fisher didn't own that property, did he? He didn't own  
7 the dirt?  
8 A. He was in the process of buying it. Right. It was still  
9 owned by somebody else.  
10 Q. He didn't own the dirt?  
11 A. No.  
12 Q. Brian owned the dirt for his project across the street,  
13 didn't he?  
14 A. Yes. Well, I don't know. I really don't know.  
10: 44: 38 15 Q. If he did own it, that would be a difference between that  
16 project and Brian's project in terms of ownership?  
17 A. Yes.  
18 Q. Okay. There wasn't a contract in -- with Bill Fisher's  
19 case with a homebuilder. There wasn't a contract in place,  
20 was there?  
21 A. I don't know what legal documents they had.  
22 MR. JACKSON: I have no further questions.  
23 THE COURT: All right. Thank you.  
24 All right. Mr. Meacham. Redirect.  
25 ***REDIRECT EXAMINATION***

10: 45: 08 1 BY MR. MEACHAM:

2 Q. As to that last point, Ms. Nealy, you were asked a series  
3 of questions on Friday about whether or not Bill Fisher was  
4 able to show Don Hill he had contracts with somebody to build  
5 homes on this Memorial Park Townhomes site.

6 Do you recall that?

7 A. Yes.

8 Q. Okay. My question -- a couple of questions -- what, if  
9 anything, did Don Hill ask you about seeing a contract with  
10 such a homebuilder?

11 A. We were not asked to provide a contract. He wanted to  
12 know -- he wanted to see the people who were going to develop  
13 it, the real estate agents, and we were able to identify some  
14 people over a couple of days.

10: 45: 50 15 Q. When you found out those were questions or concerns that  
16 Mr. Hill had, what did you do about it?

17 A. We tried to answer all questions.

18 Q. Took people to him to meet?

19 A. Yes.

20 Q. As it was just pointed out, Odyssey Residential Holding,  
21 or the company Bill Fisher worked for, did not own Memorial  
22 Park Townhomes, correct?

23 A. No.

24 Q. They needed two or three things to happen before they  
25 were going to be able to move forward with their development.

10: 46: 17 1 Is that correct?

2 MR. VITAL: Objection, leading.

3 THE COURT: Sustained.

4 BY MR. MEACHAM:

5 Q. Which of the two were before the council coming up close

6 to October 27, 2004, if you recall?

7 A. Could you repeat that?

8 Q. What needed to happen before Bill Fisher could actually

9 purchase the land, develop it, put in the infrastructure, and

10 then bring a builder on to build homes?

11 A. It needed to pass the planning commission as well as city

12 council.

13 Q. If those two things had happened, what would have

14 happened with his contract to buy the property?

10: 46: 54 15 A. Then he would move forward to purchase the property.

16 Q. Then after all that and after construction started, what

17 would happen with the builder?

18 A. Then they would be able to move forward.

19 Q. Do you know how many months, if not years, it would take

20 before the homes to move forward on that piece of property?

21 THE COURT: For the?

22 BY MR. MEACHAM:

23 Q. For the home portion, the single-home portion, to move

24 forward on that property?

25 A. There was going to take place after -- Bill was putting

10: 47: 17 1 the infrastructure in so that it would be easier to have a  
2 developer to develop on the property. The townhomes went in  
3 first.  
4 Q. What do you recall about -- we will just call them hot  
5 checks that Bill Fisher wrote Maxine Thornton-Reese?  
6 A. He wrote the checks and then something happened -- I want  
7 to say something happened with the account, and then he made  
8 good on the checks.  
9 Q. Do you recall the time frame of that?  
10 A. He turned it right around.  
11 Q. What I'm asking is at what point in time did this occur?  
12 A. Back during the spring.  
13 Q. Of an election year cycle?  
14 A. Yes.  
10: 48: 02 15 Q. Which are odd years. Is that correct?  
16 A. That's correct.  
17 Q. Would that have been 2005?  
18 A. It was either '5 or '3.  
19 Q. But it wouldn't have been October 4, 2004?  
20 A. No.  
21 MR. VITAL: Your Honor, object to the leading  
22 question.  
23 THE COURT: Sustained.  
24 BY MR. MEACHAM:  
25 Q. Let me ask it this way.



10: 48: 26 1 If the jury had heard -- or if there is a wiretap  
2 conversation in evidence dealing with hot checks to Maxine  
3 Thornton-Reese in the time frame of April or March of 2005,  
4 what election cycle would that be in relation to?  
5 A. 2005.  
6 Q. You mentioned earlier that at some point Brian Potashnik  
7 or Southwest Housing owed you money, but somebody paid off the  
8 invoices.  
9 Who paid those off?  
10 A. Bill Fisher and Willie Cochran.  
11 Q. Why did Bill Fisher and Willie Cochran pay you debts owed  
12 by Southwest Housing?  
13 A. Because I continued to bring it up.  
14 Q. What legal responsibility did Bill Fisher have for those  
10: 49: 13 15 debts?  
16 A. Reputation.  
17 Q. Whose reputation?  
18 A. His.  
19 Q. That was important to him?  
20 A. Oh, yeah. Because we were -- when I first started with  
21 Provident Bill Fisher was not there, and then he came on. So  
22 he was a part of that outstanding invoice, and I raised that  
23 issue.  
24 Q. What did he do?  
25 A. He resolved the issue.

10: 49: 42 1 Q. I think you tried to explain your answer a couple of  
2 times about his outstanding balance with you and the invoices  
3 and things.

4 I would like to give you an opportunity to do so now.

5 What would you like to tell the jury about his  
6 outstanding balance to you?

7 A. We tried to work out an arrangement because of the amount  
8 of the invoices. So what he started doing is paying down a  
9 little bit at a time, and I didn't have a problem with that,  
10 because that's not my only -- I also had Leon Backes that I  
11 was dealing with along with all of my other clients.

12 So I could work with him -- as long as I was going to get  
13 my money I didn't have a problem trying to work through all of  
14 that, because he had spent an enormous amount of money for  
10: 50: 29 15 everything to go wrong.

16 Q. You talked about Nealy & Associates -- or Kathy Nealy &  
17 Associates being a business that you worked out of your house  
18 at times. Is that correct?

19 A. Yes.

20 Q. How many employees through the years at various times has  
21 Kathy Nealy & Associates employed?

22 A. It varies. I mean, I have -- when I do political  
23 campaigns it could go up to over 200 people.

24 Q. That are working for you at one time during that  
25 campaign?

10: 50: 59 1 A. Yes. Then just an ongoing-forward basis, two or three,  
2 you know, like full time. And then I have part-time people  
3 that work with me from project to project.  
4 Q. You were also asked several questions about the fact that  
5 Bill Fisher was recording you and you didn't know it?  
6 A. That's correct.  
7 Q. Was there something else you wanted to mention about that  
8 process that you didn't get a chance to earlier?  
9 A. As far as the taping?  
10 Q. Yes, ma'am.  
11 A. I didn't know that Bill Fisher was wired. I didn't know  
12 that Bill Fisher had gone to the FBI.  
13 I did know that when we went to breakfast that morning  
14 out in the parking lot Saleem Jafar turned around to me and  
10: 51: 46 15 said, "So when did you find out?"  
16 THE COURT: Excuse me just a moment.  
17 MR. JACKSON: Objection, hearsay.  
18 THE COURT: Hearsay.  
19 MR. MEACHAM: It's not offered for the truth of  
20 matter.  
21 THE COURT: For what purpose is it offered?  
22 MR. MEACHAM: To establish her knowledge and  
23 concerns about Bill Fisher recording her at the FBI's request.  
24 THE COURT: The objection is overruled.  
25 You are to consider this for that limited purpose, ladies

10: 52: 08 1 and gentlemen. Just to explain the witness' conduct.

2 BY MR. MEACHAM:

3 Q. What issue was raised at that breakfast meeting at the  
4 Original Pancake House on October 12, 2004?

5 A. They wanted to know when did I find out about this. It  
6 was -- and many times if you are working on a case and there  
7 are other African-Americans or black people involved, then  
8 people think if you know something good or bad that everybody  
9 knows something good or bad.

10 So they thought that Don might have told me before then,  
11 and I was just finding that out. So I could see why they were  
12 trying to accuse -- think that I had knew some information  
13 prior to that, of which I did not.

14 Q. That would be my next question.

10: 52: 58 15 What, if anything, did you know prior to that meeting?

16 A. Nothing. Nothing.

17 MR. MEACHAM: Let's look at Government's Exhibit  
18 3131.

19 BY MR. MEACHAM:

20 Q. Ms. Nealy, this is an e-mail from Don Hill to Glenda  
21 Aguirre dated October 25, 2004.

22 There is a creation date down at the bottom and delivery  
23 time around 2 -- between 2:00 and 2:30 p.m. in the afternoon.

24 And the message states, "Hold D' Angelo in my office.

25 This is a different kind of meeting."

10: 53: 29 1 Do you recall meeting with Mr. Hill at that exact point  
2 in time?

3 A. (No response.)

4 MR. MEACHAM: Why don't we look at Government's  
5 Exhibit 668, page 261.

6 BY MR. MEACHAM:

7 Q. Mr. Hill's calendar. At 2:00 in the afternoon do you  
8 read that where it says?

9 A. "Kathy Nealy, Bill Fisher, Carol Reed and Saleem Jafar."

10 Q. So during the time of this meeting Mr. Hill sends the  
11 e-mail to Glenda Aguirre to keep D'Angelo out.

12 What was the purpose of that, if you know?

13 MR. VITAL: Objection, your Honor, to the sidebar  
14 side question.

10: 54: 09 15 THE COURT: All right. Just answer the question,  
16 please.

17 A. What was the question?

18 BY MR. MEACHAM:

19 Q. What was the purpose of sending the e-mail about keeping  
20 D'Angelo outside because this is a different kind of  
21 meeting?

22 MR. JACKSON: Your Honor, I object. Establish a  
23 foundation.

24 MR. VITAL: Speculation.

25 THE COURT: If you know, you may answer. If you

10: 54: 28 1 don' t, don' t.  
2 A. Because he wasn' t part of our meeting.  
3 BY MR. MEACHAM:  
4 Q. Let me ask it this way.  
5 How many different types of meetings did Don Hill have  
6 with you, Bill Fisher, Carol Reed and Saleem Jafar about these  
7 developments that were coming up, if you know?  
8 A. I don' t remember.  
9 Q. During the 2004, 2005 time frame what -- what did you  
10 know about the number of state employees that were actually  
11 members of BSEAT?  
12 A. What' s the question again?  
13 Q. How many members did BSEAT have -- how many state  
14 employee members --  
10: 55: 18 15 A. I don' t know.  
16 Q. -- did BSEAT have in 2004, 2005?  
17 A. I don' t know.  
18 Q. Can you name any?  
19 A. (No response. )  
20 Q. Or do you know of any?  
21 MR. STEINKE: Objection. She said she didn' t know.  
22 THE COURT: Sustained.  
23 BY MR. MEACHAM:  
24 Q. We have heard a lot about these criteria -- new criteria  
25 that were developed.

10: 55: 47 1 I want to ask you in relation to the Rosemont at  
2 Laurel and project, the Southwest Housing property across the  
3 street from Memorial Park Townhomes, what do you know, if  
4 anything, about the opposition to that that Carol Brandon and  
5 James Fantroy, or either one of them, raised?  
6 A. In relationship to the project?  
7 Q. Uh-huh.  
8 A. When this was -- ended up being on the table for  
9 discussion Carol tried to meet with Don to find out more  
10 information about it, because it was -- a portion of it was in  
11 Don's district, and a portion of it was in Mr. Fantroy's  
12 district, but she wasn't able to meet with him.  
13 Q. Did you find that odd?  
14 A. Yeah. Because he usually was meeting with her.  
10: 56: 40 15 Q. Who carried -- or let me rephrase my questions.  
16 Who did the CPC work for District 5 during that long  
17 absence of an appointee from District 5?  
18 A. Carol Brandon.  
19 Q. Working closely with Mr. Hill?  
20 A. Yes.  
21 Q. Based on your understanding of the relationship between  
22 Mr. Hill and Mr. Potashnik, what's the likelihood that  
23 Mr. Fantroy is going to be supportive of a Southwest Housing  
24 development in his district?  
25 MR. JACKSON: Your Honor, object, calls for

10: 57: 06 1

specul ati on.

2

THE COURT: If you have a basi s from your experience to answer, you may. Otherwise, decline to do so, please.

3

4

A. That was after they had the fallout in city hall.

5

Q. So after that what was the likeli hood that Mr. Potashnik was going to get something approved in District 8?

6

7

A. None.

8

Q. Zero, correct?

9

A. Correct.

10

Q. What Southwest Housing devel opment outside of Di strict 8 would Mr. Fantroy or his plan commi ssi oner Carol Brandon support, if you know?

11

12

13

A. What's the question?

14

Q. Would they be supportive of Southwest Housing at any location?

10: 57: 40 15

16

A. No.

17

Q. Again, we have heard a lot about this criteria and how the criteria somehow explains the votes, correct?

18

19

A. Yes.

20

Q. If that criteria were so important to Mr. Hill, then explain to the jury, if you would, why he never had one conversation with you about those criteria in relation to those projects?

21

22

23

24

MR. JACKSON: Your Honor, I object unless she has foundation as to what Mr. Hill is thinking.

25



10: 58: 07 1

THE COURT: Rephrase your question. Sustained.

2

BY MR. MEACHAM:

3

Q. How many times did Mr. Hill sit down with you and Bill

4

Fisher or anybody else in relation to Memorial Park Townhomes

5

or Pecan Grove or the Provident property and talk about this

6

new criteria with you and tell you what it meant and what the

7

issues were and how it was going to affect his decision?

8

A. We were not briefed on that.

9

Q. So how many conversations did Mr. Hill have with you

10

about those issues?

11

A. The criteria, none. We were just asked questions to

12

bring financials, you know, just different things from --

13

every day it was a different question.

14

Q. Nothing about the criteria, but financial, developer,

10: 58: 50 15

contractors, things of that nature?

16

A. Yes.

17

Q. How were those issues different in District 8 in relation

18

to Pecan Grove than they were in District 5 in relation to

19

Memorial Park Townhomes?

20

MR. JACKSON: I object. That's been asked and

21

answered.

22

THE COURT: Overruled. You may answer.

23

BY MR. MEACHAM:

24

Q. How were the financial concerns any different based upon

25

the Pecan Grove project that was about four miles straight

10: 59: 16 1 down the same road?

2 A. The financials was the same.

3 MR. MEACHAM: Thank you, ma'am.

4 I'll pass the witness.

5 THE COURT: Thank you.

6 MR. JACKSON: May I have recross?

7 THE COURT: No.

8 Ms. Nealy, you may step down. Thank you.

9 You may call your next witness.

10 MR. BUSCH: The United States call Allen McGill.

11 THE COURT: Mr. McGill, come on up here to the  
12 front, please.

13 Stand right here in front of this lady, the court  
14 reporter.

10: 59: 59 15 Raise your right hand, please.

16 State your name for the record, and spell your last name.

17 THE WITNESS: Allen McGill. A-L-L-E-N, M-C-G-I-L-L.

18 (Witness sworn by the Court at 11:00 AM.)

19 THE COURT: Let me go over a couple of things with  
20 you.

21 First, please speak directly into the microphone.

22 Don't nod your head or say uh-huh or huh-huh because the  
23 court reporter may not know what you're talking about.

24 Please wait for the questioner to finish the question,  
25 and then hopefully you and he will not be talking at the same

11:00:37 1 time.

2 All right. Mr. Busch.

3 MR. BUSCH: Thank you, your Honor.

4 **ALLEN MCGILL**, (Sworn)

5 was called as a witness by the government, having been first  
6 duly sworn, testified as follows:

7 ***DIRECT EXAMINATION***

8 BY MR. BUSCH:

9 Q. Mr. McGill, please introduce yourself to the jury.

10 Where are you from?

11 A. I was born in Thomasville, Georgia.

12 Q. All right, sir. What is your -- where did you go to high  
13 school?

14 A. I went to high school in Thomasville, Georgia.

11:01:00 15 Q. After high school what did you do?

16 A. After high school I entered the U.S. military, U.S. Army.  
17 Then went on to college at Benedict College in Columbia, South  
18 Carolina.

19 Q. Did you receive a degree?

20 A. Yes, I did.

21 Q. What was that degree?

22 A. Business administration.

23 Q. Basically after college describe your work history.

24 A. My work history briefly, I have been involved in  
25 non-profit organizations and education. I have taught at

11:01:36 1 community colleges, and I worked in various non-profits.  
2 Q. What kind of work did you do in non-profits?  
3 A. Mainly administrative.  
4 Q. Okay. What brought you to the Dallas area at some point  
5 in your life?  
6 A. I relocated to Dallas to pursue private business. At the  
7 time this area was booming, and I was in the computer  
8 business.  
9 Q. At some point did you become acquainted with Darren  
10 Reagan and the organization known as the Black State Employees  
11 Association of Texas?  
12 A. Yes, I did.  
13 Q. Do you recall approximately when that was?  
14 A. I believe it was in 1988 or '89.  
11:02:15 15 Q. What was your initial impression of Darren Reagan? And  
16 I'll refer to the Black State Employees Association of Texas  
17 as BSEAT. What was your initial impression of both Darren  
18 Reagan and BSEAT?  
19 A. Very positive. I went to -- after some investigation  
20 I -- it looked like an organization that I wanted to be  
21 associated with.  
22 Q. Did you become associated with BSEAT?  
23 A. I did.  
24 Q. In what capacity?  
25 A. As a volunteer. I volunteered, as I had on various

11:02:55 1 things that non-profits are usually involved in.

2 Q. Would you tell us what some of those things were that you

3 did with BSEAT in those early years?

4 A. Mainly I supported the efforts of -- to organize job

5 fairs or to organize -- help organize pickets, to get out

6 correspondence. It was any number of events that may have

7 been coming that if I had some time I would volunteer.

8 Q. During those early years were there other members of

9 BSEAT as far as you knew?

10 A. Yes.

11 Q. How was that information retained, if you recall?

12 A. Yes.

13 Q. How did you know there were other members?

14 A. The records -- I assumed they were kept in the BSEAT

11:03:53 15 office or by Darren, I'm not sure, but I know that there were

16 other members attending at that time.

17 Q. How many members would attend on any sort of a regular

18 basis?

19 A. It would vary depending upon the issues. It could be 25,

20 30, 35 members.

21 Q. Now, over time did that change?

22 A. Yes, it did.

23 Q. How did that change?

24 A. Well, over time we held fewer meetings. So naturally

25 there -- members started to fall off. Didn't come out to

11:04:33 1 meeting as regularly.

2 Q. Okay. So by the time we get to the year, let's say 2002,

3 any members of BSEAT?

4 A. No. Because we didn't have any meetings.

5 Q. I'm sorry?

6 A. We did not have any -- we didn't see any members.

7 Q. So from about -- at some point -- I have asked you about

8 2002 forward to let's say 2005, which is the end period of

9 this indictment, there were no meetings and no members as far

10 as you knew?

11 A. That's correct.

12 Q. Okay. Now, you mentioned picketing.

13 What was the goal of Darren Reagan and BSEAT in regards

14 to picketing?

11:05:25 15 A. We -- often to help bring about some change that we saw

16 as being needed, whether it was in areas of employment or

17 trying to get businesses to locate south of the Trinity or

18 other issues.

19 Q. So what would be done to a business to achieve those

20 goals?

21 A. I'm not certain I understand the question.

22 Q. Well, in regard to picketing just tell us how that would

23 be accomplished. Where would the picketers come from and how

24 long would the pickets last and what would be the goals?

25 A. Well, the goals would depend upon what the issues were

11:06:13 1 with any particular business that group had decided to picket  
2 it.

3 The picketing would last until we understood that what we  
4 were trying to do had been accomplished, or that we were told  
5 that the picketing could be withdrawn.

6 Q. Okay. Why did you participate in picketing businesses?

7 A. Because I saw it as an effective way to help bring about  
8 some of the changes that we were trying to bring about.

9 Q. Those changes that you are talking about, were those  
10 important to you?

11 A. Very.

12 Q. Important to the community?

13 A. Yes.

14 Q. All right. During this time frame, though, were you  
11:06:58 15 aware of whether or not picketing would stop when Darren  
16 Reagan was paid some sum of money, or given some benefit?  
17 Were you aware of that?

18 A. No, I was not.

19 Q. All right. Now, as a result of the picketing were some  
20 bank branches opened in South Dallas as far as you recall?

21 A. Yes.

22 Q. Some restaurants relocated?

23 A. Yes.

24 Q. Outside of picketing do you think those things would have  
25 happened?

11:07:28 1 A. I don't believe so.  
2 Q. Okay. Now, in this early time frame of 2001, 2002 or  
3 2000 did you -- first of all, did you have a leadership  
4 position in BSEAT?  
5 A. Yes, I did.  
6 Q. What was your title?  
7 A. I was vice chair.  
8 Q. Were you also an officer?  
9 A. Yes.  
10 Q. What was that?  
11 A. President of CDC.  
12 Q. Okay. So BSEAT was one organization, and it also had a  
13 community development corporation?  
14 A. Yes.  
11:08:07 15 Q. Okay. As president of BSEAT and the CDC and vice chair  
16 of the board were you ever given access to the bank records of  
17 BSEAT?  
18 A. No.  
19 Q. Were you called upon to write checks on behalf of  
20 BSEAT?  
21 A. No.  
22 Q. Were you called upon to make deposits on behalf of  
23 BSEAT?  
24 A. No.  
25 Q. So you were unaware of the financial condition and what



11:08:28 1 happened to the money that flowed into the BSEAT.  
2 Is that a fair statement?  
3 A. That is correct.  
4 Q. Now, during this time period, again, around 2000 or so --  
5 I'm just throwing that number out there just to orient us --  
6 did BSEAT become involved in the development of a retail  
7 center?  
8 A. Yes, it did.  
9 Q. All right. Do you recall approximately when that was?  
10 A. I believe it was 1998 or '99.  
11 Q. Okay. What was the name of that retail development?  
12 A. West Cliff Shopping Center.  
13 Q. How did that come about?  
14 A. The West Cliff Shopping Center was a dilapidated retail  
11:09:14 15 structure located at Loop 12 and Hampton that was in  
16 bankruptcy. BSEAT acquired it out of bankruptcy.  
17 Q. Where was the funding obtained for BSEAT to acquire that  
18 center out of bankruptcy? Do you recall?  
19 A. From a group of banks.  
20 Q. What did BSEAT and you and Darren Reagan do at that  
21 point?  
22 A. After the property was acquired out of bankruptcy we  
23 sought to get construction financing and to have the project  
24 pushed out -- torn down and a new set of buildings.  
25 Q. Was a new center built?

- 11:09:56 1 A. Yes.
- 2 Q. I believe we have seen some photographs. I don't recall
- 3 the exhibit, but we have seen some aerial photographs. There
- 4 appears to be a large grocer and some other businesses. Is
- 5 that about right?
- 6 A. Yes.
- 7 Q. So in this process of buying this West Cliff Shopping
- 8 Center out of bankruptcy and demolishing it, were funds raised
- 9 to build the new development?
- 10 A. Yes.
- 11 Q. Who was involved in that process?
- 12 A. Mainly Darren, myself and Gail Terrell.
- 13 Q. Who is Gail Terrell?
- 14 A. She's my wife.
- 11:10:30 15 Q. Did she also have a leadership role to some degree in
- 16 BSEAT?
- 17 A. Yes, she did.
- 18 Q. So the three of you sought financing for this new
- 19 development?
- 20 A. Yes, we did.
- 21 Q. Was it obtained?
- 22 A. Yes.
- 23 Q. Was there an investor, including banks?
- 24 A. Yes.
- 25 Q. Whose was the investor?

11:10:50 1 A. TRI.

2 Q. Where were they located out of, or do you know?

3 A. New York.

4 Q. How much did the investor put into the West Cliff

5 Shopping Center?

6 A. Approximately \$1 million.

7 Q. Were there some bank involved that provided construction

8 financing?

9 A. Yes.

10 Q. Do you recall how much that was approximately?

11 A. I believe it was about 5.6 or \$7 million.

12 Q. Once West Cliff Shopping Center was rebuilt, what role

13 did you and your wife Gail play in that development?

14 A. As it was being constructed we oversaw generally the --

11:11:38 15 MR. JACKSON: Your Honor, I object to that answer

16 being nonresponsive to the question.

17 THE COURT: That's sustained. Ask your question

18 again.

19 MR. BUSCH: Your Honor, if I may, I'll back up one

20 question.

21 THE COURT: All right.

22 BY MR. BUSCH:

23 Q. During the construction -- or preconstruction phase, what

24 role did you or Gail Terrell play in that part of it?

25 A. We helped to negotiate some of the contracts with

11:12:09 1 potential construction companies.

2 Q. The general contractor, was the general contractor a

3 minority company?

4 A. No, it was not.

5 Q. All right. So the general contractor is hired to build

6 the project, and there are some subcontractor also hired?

7 A. Yes.

8 Q. You were involved in those negotiations with the general

9 contractor and the subcontractors?

10 A. Yes.

11 Q. Were some of the subcontractors minority subcontractors?

12 A. I believe so, yes.

13 Q. All right. So while the development is being built were

14 you involved in the lease-up or looking for tenants?

11:12:55 15 A. Yes.

16 Q. Were tenants located and found to lease the various

17 spaces?

18 A. Yes.

19 Q. Including a grocer?

20 A. Yes.

21 Q. Do you recall who that was?

22 A. Albertson's.

23 Q. Is Albertson's still there?

24 A. No.

25 Q. Is there another grocer there in that spot?

11:13:14 1 A. Yes, there is.

2 Q. So moving forward, how -- some years have passed. Was a

3 decision ultimately made to sell the West Cliff Shopping

4 Center?

5 A. Yes.

6 Q. Why was that decision made?

7 A. There was some feelings on our part that the market was

8 growing a bit soft, and it was time to consider an exit

9 strategy.

10 Q. So what was done to find a purchaser for the West Cliff

11 Shopping Center?

12 A. We made a pretty intensive effort to locate potential

13 buyers from across the country.

14 Q. When a purchaser was found, or a buyer, what was done

11:14:09 15 then?

16 A. That buyer -- or those potential buyers were contracted

17 and potential selling prices were discussed.

18 Q. Was a sale ultimately consummated?

19 A. Yes, it was.

20 Q. Let me direct your attention to -- was the investor still

21 an investor, the retail initiative, TRI, that you talked about

22 they put in a million dollars?

23 A. Yes.

24 Q. Did the investor expect to receive a return on the

25 investment of the sale of West Cliff?

11:14:48 1

A. Yes.

2

Q. Was an effort done by you and Mr. Reagan to deprive the investor --

3

4

MR. STEINKE: Excuse me, Judge. May we approach?

5

THE COURT: Yes.

6

(Discussion at the bench.)

7

MR. STEINKE: This is obviously 404(b) material that Mr. Busch told me he was not going to go into.

8

9

MR. BUSCH: The Court and defendant were noticed

10

about a year and a half ago. These exhibits have been

11

admitted into evidence that relate to this. Not only a

12

telephone conversation where they speak about these events,

13

what they're going to do with these documents, but the

14

document itself. So I don't believe I ever gave Mr. Steinke

11:15:32 15

the impression that we would not go into this matter.

16

MR. STEINKE: Marcus, on Friday I asked you if you

17

were going to go into this before I was going to make any

18

objections to these documents, and you said no.

19

None of the documents relate to the bankruptcy or the

20

sale or any alleged fraud involving the sale.

21

And so I said, you're not going to go into it --

22

THE COURT: I'll send the jury out.

23

(Back from the bench.)

24

THE COURT: Ladies and gentlemen, I'm sorry. I'm

25

Going to send you back to the jury room for a couple of

11:15:55 1 minutes. Maybe five minutes.

2 MR. WILLIAMS: All rise for the jury.

3 (Jury retired from the courtroom.)

4 THE COURT: All right. Mr. McGill, I'm going to  
5 have you step outside for just a moment, please, sir.

6 THE COURT: All right. Mr. Busch, make a proffer of  
7 what we're about to hear so I have a context, please.

8 MR. BUSCH: Your Honor, the government intends to  
9 offer evidence that this agreement of the limited partnership  
10 to facilitate the sale was a fraudulent document, that  
11 Mr. Reagan told Mr. McGill to sign the name of the investor to  
12 the document knowing that it was a forgery, that they both did  
13 this, and that this document was used to consummate the sale.

14 I gave the defendant notice via 404(b) notice, and I  
11:17:33 15 don't recall the date, but I'm thinking it's in the summer of  
16 2007 whenever that deadline was to give notice. I gave that  
17 notice. There was no objection -- or no motion in limine ever  
18 filed in that regard.

19 This document is Government's Exhibit 3296. It's been  
20 admitted into evidence. No objection by Mr. Reagan.

21 There is a telephone conversation that's contemporaneous  
22 with the creation of this document, March 22, 2005. That has  
23 also been admitted into evidence without objection.

24 Mr. Steinke asked me last week whether the government was  
25 going to offer evidence regarding the bankruptcy of BSEAT that

11:18:20 1 it went into after the sale of this West Cliff Shopping  
2 Center.

3 I advised Mr. Steinke that the government would not go  
4 into that bankruptcy. That's the bankruptcy that was forced  
5 on BSEAT after this fraudulent transaction was uncovered by  
6 the investor in New York.

7 So I did advise that I would not go into that bankruptcy,  
8 which is after the sale of this West Cliff Shopping Center.

9 That's the only thing that I said that the government  
10 would not go into during this trial. It was still under  
11 investigation.

12 THE COURT: Mr. Steinke.

13 MR. STEINKE: On Friday morning before we discussed  
14 all of those government's exhibits that had not yet been put  
11:19:04 15 into evidence I asked Marcus whether -- Mr. Busch whether or  
16 not any of the remaining documents that had not been admitted  
17 into evidence had anything to do with West Cliff Shopping  
18 Center or alleged fraud involving it, including any bankruptcy  
19 fraud. He assured me no.

20 Now, obviously it's in. The evidence is in.

21 My argument now is under 404(b) this evidence does  
22 absolutely nothing to establish any motive scheme identity  
23 involving any extortion attempt alleged in count 15 of the  
24 indictment.

25 And under 302 the prejudicial value far outweighs -- or



11:19:51 1 the prejudicial value far outweighs any benefit of this  
2 evidence to the jury.

3 THE COURT: Well, is the March 22, 2005 telephone  
4 conversation confirming this fraudulent forgery of the  
5 documents?

6 MR. BUSCH: Yes, it's a discussion clearly about it.

7 THE COURT: All right. Well, my view is that the  
8 objection has been waived, but in addition to that, the Court  
9 would admit it anyway under 404(b).

10 The 403 objection is overruled if the Court would have to  
11 get there, but my view is that the objection has been waived.

12 There is a difference of opinion about what was said, and  
13 I'm not crediting one of you over the other, but I don't have  
14 any record to review. So I can't conclude that there was an  
11:20:44 15 agreement on this when I have two different versions of it.

16 I don't have any way of concluding that. I'm not in a  
17 position to determine that one of you are more credible than  
18 the other is about it.

19 Are there any witnesses to the conversation?

20 MR. STEINKE: I don't know whether it was overheard  
21 or not by anybody else.

22 MR. BUSCH: I wouldn't have offered these documents  
23 and had them admitted -- the telephone conversation and this  
24 particular document, but for the sole reason to establish what  
25 the Court finds is 404(b) evidence.

11:21:17 1 THE COURT: For the record, Mr. Busch, to make sure  
2 that the record is complete, what is the government's theory  
3 of the relevancy as to these documents?

4 MR. BUSCH: It goes to the conduct between these two  
5 defendants. I mean, they're talking about what they're doing  
6 with Bill Fisher in the same context as what they're doing  
7 with this investor.

8 THE COURT: All right. It is the Court's view that  
9 the timing of these and the commonality in persons involving  
10 an entity that is charged to have been involved in a  
11 falsification of activities with relation to the charges here  
12 makes this conversation relevant and admissible. So the Court  
13 overrules the objection.

14 Is there anything else you want for purposes of the  
11:22:10 15 record, Mr. Steinke?

16 MR. STEINKE: No, ma'am.

17 THE COURT: Bring back the jury.

18 (Jury returned to the courtroom.)

19 THE COURT: Court time and real-time are the same.  
20 I think that was five minutes.

21 All be seated, please.

22 All right. Mr. Busch, you may proceed.

23 MR. BUSCH: Thank you, your Honor.

24 BY MR. BUSCH:

25 Q. Mr. McGill, I want to direct your attention to

11:23:31 1 Government's Exhibit 3296.

2 Do you recognize the first page of this document?

3 A. Yes, I do.

4 Q. Okay. Does it appear to be some sort of agreement of

5 limited partnership entered into between West cliff Shopping

6 Plaza, Inc.?

7 A. Yes.

8 Q. And those other parties executing this document. Is that

9 correct?

10 A. Yes.

11 Q. All right. Now, if we look to page 16 of this document

12 does it appear to be signed by Darren Reagan as president of

13 West Cliff Shopping Plaza, Inc.?

14 A. Yes.

11:24:23 15 Q. Was that an entity that was formed to oversee the

16 construction of this West Cliff Shopping Center?

17 A. Yes.

18 Q. Does it also appear to be signed by Darren Reagan on

19 behalf of Black State Employees Association of Texas CDC?

20 A. Yes.

21 Q. Now, at the time of the sale --

22 THE COURT: Excuse me just a minute.

23 Mr. Steinke, do you want me to give the jury a special

24 instruction with respect to 404(b)?

25 MR. STEINKE: Yes, ma'am.

11: 24: 50 1 THE COURT: All right. I will.  
2 All right. Thank you.  
3 Go ahead. I'm not going to do it yet.  
4 BY MR. BUSCH:  
5 Q. At the time of the sale in March of 2005 -- first of all,  
6 was there any black state employees as members of BSEAT?  
7 A. Earlier on, yes.  
8 Q. But in the -- in this millennium, in the 2000s?  
9 A. Not that I was aware of.  
10 Q. By this time frame, by March of 2005, none?  
11 A. None that I'm aware of.  
12 Q. Let's look at the next page, page 17.  
13 It appears to have a signature on it.  
14 Do you see that signature on that page?  
11: 25: 41 15 A. Yes, I do.  
16 Q. It appears to have been signed on behalf of someone who  
17 is the president of TRI, Inc. Is that correct?  
18 A. Yes.  
19 Q. TRI was the retail initiative, the investor?  
20 A. That's correct.  
21 Q. Who put this signature on this document?  
22 A. I signed that.  
23 Q. Why did you sign this document saying -- or affix a  
24 signature of someone as the president of TRI?  
25 A. It was suggested to me by Darren.

11:26:13 1 THE COURT: Ladies and gentlemen, I'm going to give  
2 you a special instruction at this time.

3 No one, neither Mr. McGill nor Mr. Reagan, have been  
4 charged with any criminal offense that is of any concern to  
5 you in this case with respect to the signing of these  
6 documents.

7 They're being offered for a limited purpose, if you find  
8 them to be relevant, the subject of whether they prove motive,  
9 opportunity, intent, preparation, plan, knowledge, identity or  
10 absence of mistake or accident with respect to the crimes  
11 charged in this case.

12 In other words, if you find these documents to be  
13 relevant to the charges in this matter you may consider them  
14 for that purpose, but not in connection with any direct claim  
11:26:59 15 with respect to the documents themselves.

16 Any objection to that instruction?

17 MR. STEINKE: No, ma'am.

18 THE COURT: All right. Thank you.

19 BY MR. BUSCH:

20 Q. Mr. Reagan suggested that you sign this document as  
21 president of TRI. Is that correct?

22 A. That's correct.

23 Q. What was the purpose of this?

24 A. In order to facilitate the sale of this shopping center.

25 Q. And to do what to TRI's interest in this property?

11:27:27 1 A. To delay -- or to keep them from getting their  
2 interest.

3 Q. Now, let me direct your attention back to the time frame  
4 of 2002 and 2003.

5 What information did you and/or Darren Reagan receive  
6 regarding affordable housing developments in the Dallas area,  
7 either from the Texas Department of Housing and Community  
8 Affairs or any other source?

9 A. Well, from the state we received a list of potential  
10 developers in this area of affordable housing.

11 Q. Why did you do that?

12 A. Well, we had an interest in where those housing  
13 developments were going to be built and by whom.

14 Q. What was your interest?

11:28:36 15 A. We had an interest in knowing where they were going to be  
16 built because in some parts of our community many felt that we  
17 had too many multi-family housing developments in our  
18 community. So we certainly had an interest from that  
19 standpoint.

20 Q. Was that your only interest?

21 A. Not the only interest. We wanted to also know for our  
22 own personal gain potentially who was going to be building  
23 these units.

24 Q. What did you mean by your own person gain?

25 A. Well, there may have been an opportunity for us to

11:29:19 1 partner or otherwise earn -- have an opportunity to earn --  
2 get some money from some of the developers.  
3 Q. How would you get money from developers?  
4 A. Well, there was a way to perhaps politically pressure  
5 them or pressure them through the communities, then we would  
6 have an opportunity to do that.  
7 Q. Was that one of your motives, to find where these  
8 developments were going to be proposed and to become involved  
9 with developers?  
10 A. Yes.  
11 Q. All right. Before we go any further, Mr. McGill, were  
12 you in fact charged and indicted by the grand jury in this  
13 particular case?  
14 A. Yes.  
11:30:06 15 Q. And were you charged along with Darren Reagan, Rickey  
16 Robertson, D'Angelo Lee and Don Hill with engaging in count 15  
17 of this indictment, conspiracy to commit extortion?  
18 A. Yes.  
19 Q. Were you also charged with Sheila Farrington and Don Hill  
20 and D'Angelo Lee in count 16, a substantive extortion count?  
21 Do you recall that?  
22 A. Yes.  
23 Q. All right. Now, before this case -- before I took this  
24 case to the grand jury did you receive a letter from me on  
25 behalf of the United States Department of Justice?

11: 30: 48 1

A. I did.

2

Q. As a result of receiving that letter advising you that you were a target of an investigation did you decide to come in and speak to me and the agents?

5

A. I did.

6

Q. Why did you make that decision, Mr. McGill?

7

A. Because I knew that I had committed an offense, and I needed an opportunity to just do the right thing.

9

Q. In fact, did I advise you that you had the right to have an attorney advise you before you spoke with us?

10

11

A. Yes.

12

Q. What decision did you make, sir?

13

A. I made a decision to continue to speak without an attorney.

14

11: 31: 27 15

Q. Why did you make that decision?

16

A. I had made up my mind. I really didn't feel that I needed an attorney at that point.

17

18

Q. But at some point an attorney was appointed to represent you.

19

20

Is that your understanding?

21

A. That's correct.

22

Q. Is that attorney in fact in this courtroom?

23

A. Yes, he is.

24

Q. Is that Derrick Brown?

25

A. Yes.



11:31:48 1 Q. He's been with you from that point to this point?  
2 A. Yes.  
3 Q. Okay. Of course, this event was after the search  
4 warrants were executed across the City of Dallas on June 20,  
5 2005?  
6 A. That's correct.  
7 Q. Let me stop there for a second.  
8 Did the FBI search your residence?  
9 A. Yes.  
10 Q. How did you find their conduct and their behavior in  
11 searching your residence?  
12 A. Professional.  
13 Q. How did you -- how would you characterize your experience  
14 with the FBI throughout the public phase of this case that --  
11:32:35 15 of you have been aware of, from the search warrant to the  
16 present?  
17 A. Professional.  
18 Q. Have you had occasion to meet with special agents Don  
19 Sherman and Allen Wilson in this case?  
20 A. Yes.  
21 Q. So based on your experience with the FBI and the agents  
22 you responded to the target letter and you came in and you  
23 began to cooperate. Is that fair?  
24 A. That's correct.  
25 Q. As a result of your cooperation did you then make the

11:33:08 1 decision to plead guilty in this case?

2 A. Yes, I did.

3 Q. Do you recall pleading guilty to a conspiracy to commit

4 extortion?

5 A. Yes.

6 Q. As part of your plea agreement do you understand that the

7 maximum exposure that you have is five years?

8 A. That's correct.

9 Q. And that a fine may be assessed?

10 A. That's correct.

11 Q. That restitution may be ordered by the Court, or may not

12 be ordered by the Court.

13 Do you understand that?

14 A. Yes.

11:33:37 15 Q. That property may or may not forfeited. It's up to the

16 judge.

17 A. That's correct.

18 Q. That if the Court accepts your plea agreement with the

19 United States is it your understanding that the government

20 will dismiss the other charges that are against you?

21 A. Yes.

22 Q. Now, having said all that, is there any other promise or

23 guarantee made to you by the government?

24 A. No.

25 Q. Okay. Do you recognize Don Hill in this courtroom?

11:34:14 1 A. Yes, I do.  
2 Q. And now Sheila Farrington-Hill?  
3 A. Yes.  
4 Q. D'Angelo Lee?  
5 A. Yes, I think so. I'm not certain I see D'Angelo Lee.  
6 Yes, I do.  
7 Q. Okay. Darren Reagan?  
8 A. Yes.  
9 Q. And Rickey Robertson. Do you know him?  
10 A. No, I do not.  
11 Q. You do not know Mr. Robertson?  
12 A. No.  
13 Q. Is there any question in your mind whether or not you are  
14 guilty of the offense of extortion in this case?  
11:34:54 15 A. No.  
16 Q. Now, where I left off we were talking getting information  
17 on these affordable housing developers, and you said one of  
18 the motives was to see if you and Darren Reagan could somehow  
19 profit by --  
20 MR. STEINKE: Objection, leading.  
21 THE COURT: Sustained.  
22 BY MR. BUSCH:  
23 Q. Let's get back to where we were a few minutes ago.  
24 You had spoken about your motivation for getting this  
25 information.

11: 35: 25 1 Do you recall ever speaking out either here in the City  
2 of Dallas or in Austin against multi-family housing?

3 MR. STEINKE: Objection, Leading.

4 THE COURT: Sustained.

5 BY MR. BUSCH:

6 Q. What efforts did you and Mr. Reagan make in indicating  
7 either your support or opposition to affordable housing?

8 A. We at one time, or perhaps more, spoke before councils in  
9 opposition to multi-family developments.

10 Q. Let me direct your attention now to Government's  
11 Exhibit 382, it will pop up on your screen, and ask you if you  
12 recognize this letter dated August 24, 2004?

13 A. Yes, I do.

14 Q. The jury has seen this letter several times already.

11: 36: 33 15 What was your motivation, or that of Mr. Reagan, in  
16 preparing this letter?

17 A. The motivation was to -- well, this letter was to request  
18 a moratorium on all applications on multi-family housing that  
19 would have helped in delaying possibly in the developer's  
20 application that was pending for approval.

21 Q. Who was this letter presented to?

22 A. I believe that that letter was given to the city council  
23 members.

24 Q. Was there a follow-up physical presentation by you and  
25 Mr. Reagan to the city council?

11: 37: 27 1 A. Yes.

2 Q. Was that the following day on the 25th of August?

3 A. I believe so.

4 Q. What happened during that presentation? Did you or

5 Mr. Reagan or both of you speak?

6 A. I believe both of us spoke. I spoke in opposition of, I

7 believe to multi-family developments at that time.

8 Q. Frankly, what concern did you really have about the

9 number of units that were being built? Was that your

10 motivation, or was it something else?

11 A. It was our primary motivation was to delay the projects.

12 We needed to have -- delay the projects in order to help get

13 our deal done.

14 Q. What do you mean by "our deal done"?

11: 38: 23 15 A. Well, we had -- we were trying to negotiate a contract

16 with one or more of the developers, and if there was some

17 delay then perhaps that would put pressure on the developer to

18 help speed their agreement with us.

19 Q. All right. Do you recall who the developers were in this

20 August time frame of 2004?

21 A. The two developers that I'm aware of is Fisher and

22 Potashnik.

23 Q. Do you know whether or not a contract was ever executed

24 with Brian Potashnik?

25 A. I'm not aware of one being executed.

11:39:02 1 Q. Are you aware of a contract being executed with Bill  
2 Fisher?  
3 A. Yes.  
4 Q. I'm going to direct your attention now to Government's  
5 Exhibit 303, and ask you to take a look at that document.  
6 A. (Witness peruses document.)  
7 Q. Now, let's look at the -- do you recall ever seeing this  
8 letter or this memorandum?  
9 A. I don't recall it, no.  
10 Q. Okay. Let's look at Government's Exhibit 315, page 14.  
11 Do you recognize this calendar?  
12 A. Yes.  
13 Q. Whose calendar is it?  
14 A. That's my calendar.  
11:40:08 15 Q. Let me direct your attention to September 20, 2004.  
16 Do you see that entry?  
17 A. Yes.  
18 Q. The 11:30 says Kathy and Bill Fisher.  
19 Who was Kathy?  
20 A. Kathy Nealy.  
21 Q. Does that indicate a meeting that you participated in on  
22 September 20th at 11:30 with Kathy Nealy and Bill Fisher?  
23 A. Yes.  
24 Q. Pappadeaux. Is that a restaurant?  
25 A. Yes.

11:40:36 1 Q. All right. After that meeting was there another meeting  
2 or event indicated in your calendar?  
3 A. Yes.  
4 Q. 1:30, city hall. Is that with council members Fantroy  
5 and Hill?  
6 A. Yes.  
7 Q. Let's talk first about the lunch at Pappadeaux with Kathy  
8 Nealy and Bill Fisher.  
9 Do you recall who else attended that lunch?  
10 A. Darren, D'Angelo and myself.  
11 Q. Do you recall what the topic of conversation was?  
12 A. I believe that the topic of conversation was who was  
13 going to coordinate between the developer and the council  
14 person.  
11:41:21 15 Q. What do you mean by that?  
16 A. In the case of dealing with the developers, who was going  
17 to be the person that really was in charge of talking directly  
18 to the developer and directly to the council person.  
19 Q. What did Mr. Reagan say in that regard?  
20 A. Darren indicated that he wanted to be that person.  
21 Q. What did D'Angelo Lee say in that regard?  
22 A. I believe that D'Angelo indicated that he wanted to be  
23 that person.  
24 Q. Was there anything else of substance discussed during  
25 this lunch meeting that you recall?

11:42:05 1 A. Not that I recall.

2 Q. Then at 1:30 did you have a meeting at city hall with

3 Fantroy and Hill?

4 A. I believe so.

5 Q. Do you recall who else may have participated in that

6 meeting?

7 A. No, I do not.

8 Q. Do you recall what was said during that meeting?

9 A. No, I do not.

10 Q. Let's look now at Government's Exhibit 218.

11 Do you recognize this e-mail from you to Bill Fisher?

12 A. Yes, I do.

13 Q. Would you read this e-mail to the jury, please.

14 A. The subject is "business referral."

11:42:58 15 The date is 9-21-04.

16 It's from Allen McGill to Bill Fisher.

17 THE COURT: Everyone has it. The jury all has it.

18 They can see it. Any particular questions you want to direct

19 them to.

20 MR. BUSCH: Thank you, your Honor.

21 BY MR. BUSCH:

22 Q. The first sentence you said, "Darren and I appreciate the

23 candor and openness."

24 What did you mean by that?

25 A. I think I expected the negotiations -- the discussions to



11: 43: 36 1 be much more acrimonious than it turned out to be.

2 Q. Why did you expect that?

3 A. Because we were asking for a piece of the action.

4 Q. In spite of asking for a piece of the action, what was

5 Bill Fisher's demeanor?

6 A. As I recall, he was pretty open.

7 Q. Did you tell him that -- in this third sentence did you

8 ever tell him that Gail Terrell was your wife?

9 A. No, I did not.

10 Q. Why did you not tell Bill Fisher that Gail Terrell was

11 your wife?

12 A. Well, I wanted to maintain the -- that appearance of

13 there was no relationship, because I was making a referral,

14 and the issue never came up.

11: 44: 35 15 MR. BUSCH: Now, let's look at Government's Exhibit

16 303, page 25.

17 BY MR. BUSCH:

18 Q. The bottom part is your e-mail.

19 Is that the response from Mr. Fisher at the top?

20 A. Yes.

21 Q. Now, I want to direct your attention to Brian Potashnik

22 327.

23 We have seen this before the jury.

24 Were you aware of the contents of this letter?

25 A. Yes.

11:45:26 1 MR. BUSCH: Okay. If we scroll down.  
2 BY MR. BUSCH:  
3 Q. First of all, did this letter come from Bill Fisher?  
4 A. Yes, I think it did.  
5 MR. BUSCH: Okay. If we scroll down to the next  
6 page.  
7 BY MR. BUSCH:  
8 Q. Number 1, the total compensation of 55,000, and there is  
9 some other factors in that.  
10 Do you see that?  
11 A. Yes, I do.  
12 Q. At the end of paragraph 2, your group --  
13 A. I'm sorry?  
14 Q. I think it may be "use best efforts to obtain a support  
11:46:10 15 letter from Don Hill and Senator Royce West."  
16 Is that approximately what it says?  
17 A. Yes.  
18 Q. Okay. That you, referring to Darren Reagan and yourself  
19 and at least three people should appear at these public  
20 hearings and support the project.  
21 Was that your understanding?  
22 A. Yes.  
23 Q. Now, you were aware of this letter. Is that correct?  
24 A. Yes, I am -- I was.  
25 Q. Were you aware of a counter by Darren Reagan to Bill

11:46:52 1 Fisher?

2 A. No, I was not.

3 MR. BUSCH: Let's look at Government's Exhibit 314.

4 BY MR. BUSCH:

5 Q. Were you aware of this letter that went back to Bill  
6 Fisher on September 20th, about a week later?

7 A. I don't believe I had seen this letter at the time.

8 MR. BUSCH: Okay. Let's look at paragraph number 1.

9 BY MR. BUSCH:

10 Q. In parentheses after the word "several of our close and  
11 preferred consultants," it has your wife and the name of  
12 Ms. Debra Kirvin.

13 Do you recall who Debra Kirvin was at the time?

14 A. Yes. I believe that's -- she and Darren were married at  
11:47:44 15 the time.

16 MR. BUSCH: If we continue on down. Scroll down,  
17 please.

18 BY MR. BUSCH:

19 Q. Let's look at that last paragraph at the bottom.

20 Did you know Alton Scott?

21 A. No.

22 Q. Did you know Richard Williams?

23 A. No.

24 Q. Did you know Clifton Kirvin?

25 A. I may have met him.

11:48:10 1 Q. Did any of these three -- well, the first two you did not  
2 know. Did Clifton Kirvin have any involvement as far as you  
3 knew as president of BSEAT with BSEAT?

4 A. No, not that I'm aware of.

5 MR. BUSCH: Now, let's look at Government's  
6 Exhibit 1938.

7 BY MR. BUSCH:

8 Q. Do you recall whether or not you saw this contract, or  
9 this proposal back on October 8, 2004?

10 A. Yes, I believe so.

11 MR. BUSCH: If we look down towards the bottom half  
12 of the page, please.

13 BY MR. BUSCH:

14 Q. It appears that the term -- or the amount of 150,000 has  
11:49:01 15 been stricken and 100,000 has been written in its place and  
16 50,000 as a retainer or refundable initial payment has been  
17 reduced to 10,000 and the 1,500 per hour has been crossed out.

18 Do you see those changes?

19 A. Yes.

20 Q. There are some other changes.

21 Do you recognize the initials in the right margin as the  
22 person who made those changes?

23 A. No. I understand that may have been Bill Fisher, but I  
24 don't know his handwriting, so I can't say it.

25 Q. Did you make these changes?

11:49:36 1 A. No, I did not make those changes.

2 Q. Do you think Darren Reagan would have made those changes  
3 knocking down the dollar amounts and eliminating the \$1,500  
4 per hour?

5 MR. STEINKE: Well, objection to foundation.

6 THE COURT: That's sustained.

7 BY MR. BUSCH:

8 Q. Do you recognize any of the handwriting as Darren  
9 Reagan's?

10 A. No.

11 MR. BUSCH: Let's look at page 4 of this document.

12 BY MR. BUSCH:

13 Q. At the bottom in that same handwriting that we saw on the  
14 first page it says, "Agreement includes Exhibit A attached,  
11:50:08 15 which is incorporated and fully integrated into this  
16 agreement," and those same initials.

17 MR. BUSCH: Let's move on to about page 6, and look  
18 at that Exhibit A, and in particular, paragraph C.

19 BY MR. BUSCH:

20 Q. Do you recall reading this paragraph back then in October  
21 of 2004? Have you seen this document?

22 A. Yes.

23 Q. "Company represents and warrants that no compensation of  
24 any kind -- or nature or kind will be paid to anyone who is an  
25 employee or an elected official in the City of Dallas or

11:50:45 1 Dallas County."

2 What did that mean to you?

3 A. That no money should be paid in any manner to a public  
4 official or city council person.

5 Q. Was this a provision that -- this Exhibit A, was this  
6 something that Mr. Fisher interjected into this agreement?

7 A. Yes.

8 Q. Now, if we look back at -- without going back -- that  
9 \$1,500 an hour, there has been some testimony or comments  
10 about the 1,500.

11 Who at BSEAT earned \$1,500 an hour back in 2003?

12 A. No one that I knew.

13 Q. All right. Anybody paid a salary -- hourly or salary at  
14 BSEAT as far as you knew?

11:51:42 15 A. Only Darren.

16 Q. Only Darren.

17 Do you know whether or not he was billing anybody at  
18 \$1,500 an hour?

19 A. Not that I'm aware of.

20 Q. Were there any other paid employees other than Darren --  
21 Reagan or paid individuals other than Darren Reagan at BSEAT?

22 A. Not that I'm aware of.

23 Q. So now looking at the West Cliff Shopping Center, were  
24 there any paid employees of BSEAT at that time in managing the  
25 West Cliff Shopping Center?

11:52:15 1 A. No.

2 Q. All right. This agreement --

3 MR. BUSCH: If we look back at page 1.

4 BY MR. BUSCH:

5 Q. I'm now going to ask you to look at another agreement,

6 and see if you recognize this document.

7 MR. BUSCH: Government's Exhibit 146.

8 BY MR. BUSCH:

9 Q. First of all, there is a cover letter.

10 Does that cover letter appear to be to someone by the

11 name of Brian?

12 A. Yes.

13 Q. Do you know which Brian that might be?

14 A. I don't know for certain. It could be Brian Potashnik.

11:53:15 15 Q. Okay. Is that -- do you see the second paragraph, "I'm

16 in the process of scheduling a meeting with Councilman Don

17 Hill and State Senator Royce West regarding the projects"?

18 A. Yes.

19 Q. What impression do you get from that statement in a

20 letter to a developer by Darren Reagan?

21 A. That Darren had the ability to meet with these two

22 individuals.

23 Q. What would the message be sent, if any?

24 A. That basically he has juice to -- with these two

25 individuals.

11: 53: 52 1 MR. BUSCH: All right. Let's look at Government's  
2 Exhibit 153-F, please.

3 BY MR. BUSCH:

4 Q. Does this agreement look similar to the other agreement  
5 that we looked at that was sent to Bill Fisher?

6 A. Yes.

7 Q. All right. We look down here in the middle of this -- or  
8 near the bottom of this paragraph, and it has the good faith  
9 effort contracting outreach initiative goal of 40 percent plus  
10 participation.

11 Are you aware of what the state requirement is for  
12 developers who receive tax credits or tax-exempt bonds to  
13 build these projects in the State of Texas?

14 A. No, I'm not.

11: 54: 45 15 MR. BUSCH: If we look at the next page of this  
16 document, and we look at the top here of this top paragraph.

17 BY MR. BUSCH:

18 Q. It has \$125,000 fee, 15,000 as initial retainer, and  
19 balance at the closing of the bonds.

20 Is it somewhat similar to the other contract that Darren  
21 Reagan sent to Bill Fisher? The dollar amounts are a little  
22 different, but are they somewhat similar?

23 A. Yes, it is.

24 Q. Now, the date of this document was October 14.

25 Do you know what happened at city hall on October 27,



11:55:26 1 2004 in relation to these two developers, Brian Potashnik and  
2 Bill Fisher?  
3 A. I don't recall.  
4 Q. Okay. Are you aware whether or not some projects were  
5 voted up or down --  
6 MR. STEINKE: To which we object. He said he didn't  
7 recall.  
8 THE COURT: If you are attempting to refresh his  
9 recollection, you may ask that question, but not for other  
10 purposes.  
11 MR. BUSCH: Thank you, your Honor.  
12 BY MR. BUSCH:  
13 Q. Are you aware of whether or not any projects were voted  
14 up or down in October of 2004 with the Dallas City Council?  
11:55:57 15 A. Yes.  
16 Q. Were you there?  
17 A. I believe so.  
18 Q. What is it that you recall from that event?  
19 A. I believe that -- I believe that some of those projects  
20 were approved and some were not. I don't have a clear  
21 recollection of that meeting.  
22 Q. Now, let me direct your attention to another city council  
23 meeting here in Dallas.  
24 MR. BUSCH: Government's Exhibit 1549.  
25 BY MR. BUSCH:

11:57:35 1 Q. Do you recall whether or not you were --  
2 MR. BUSCH: If we look at page 2.  
3 BY MR. BUSCH:  
4 Q. The top of it refers to a project Chickory Court, Simpson  
5 Stuart, related to Homes of Pecan Grove.  
6 Are you familiar with the Homes of Pecan Grove project of  
7 Bill Fisher?  
8 A. Yes.  
9 Q. Do you recall whether you were at the city council on  
10 November 10th when a vote was had on that particular project?  
11 A. I believe so.  
12 Q. What was the purpose of you being at the city council on  
13 November 10, 2004?  
14 A. I believe that we were there to make certain that action  
11:58:26 15 was taken on that particular project that we wanted to see  
16 happen.  
17 Q. Did you in fact speak on behalf of that project?  
18 A. (No response.)  
19 Q. Or do you recall?  
20 A. I don't recall whether I spoke on that project at that  
21 time or not.  
22 Q. Did you appear in favor of that project?  
23 A. Yes, I did.  
24 Q. Why did you do that?  
25 A. I believe because at that time we had our -- we had our

11:58:52 1 deal -- or we were working on our deal at that time with Bill  
2 Fisher.

3 MR. BUSCH: Okay. If we look at the next exhibit,  
4 Government's Exhibit 1591.

5 BY MR. BUSCH:

6 Q. I think you will see dated at the top is November 10,  
7 2004. It says, "The following individuals addressed the city  
8 council regarding the resolution."

9 Do you see your name in that group?

10 A. Yes.

11 Q. Did you know Abdul Karriem?

12 A. No.

13 Q. Did you know Eugene Thomas?

14 A. Yes.

11:59:22 15 Q. Did you know Reverend H. J. Johnson?

16 A. Yes.

17 Q. Did you know Charletta Compton?

18 A. I believe so.

19 Q. Then there is Darren Reagan, Al Lipscomb.

20 Did you know Mr. Lipscomb?

21 A. Yes.

22 Q. Did you know Ms. Norman?

23 A. Yes.

24 Q. Did you know Ron Ferguson?

25 A. I don't believe so.

11:59:40 1 Q. So you and Darren Reagan were there on November 10th  
2 addressing the council in favor of it and then Don Hill moves  
3 to approve the resolution and it passed.  
4 Is that your recollection?  
5 A. Yes.  
6 Q. Do you know whether or not during this time period  
7 whether Darren Reagan had meetings with Don Hill not in your  
8 presence?  
9 A. I believe so.  
10 Q. Do you know where those meetings took place generally?  
11 A. I believe some of them maybe at city hall.  
12 Q. Do you know where else in the community some of those  
13 meetings may have taken place?  
14 MR. VITAL: Your Honor, I think I need to object to  
12:00:36 15 foundation.  
16 THE COURT: If you know, you may answer. If you  
17 don't, don't answer.  
18 A. At one of the Starbucks.  
19 Q. Do you recall that location? Or one of those Starbucks?  
20 A. I believe it was the one on Camp Wisdom.  
21 MR. BUSCH: Let's look at Government's Exhibit 76.  
22 BY MR. BUSCH:  
23 Q. At the very top in small print it says Donald W. Hill  
24 Deputy Mayor Pro Tem.  
25 So I represent to you that this is one of the calendars

12:01:23 1 for Don Hill.

2 Do you see where I made that reference?

3 A. Yes.

4 Q. If we look down in the lower left-hand corner for  
5 November 16th, Tuesday, the first entry has a meeting with  
6 Darren Reagan at the Starbucks on Camp Wisdom.

7 Do you see that?

8 A. Yes.

9 Q. Now, that was -- this meeting appears to have taken  
10 place -- or is scheduled for 8:45 to 9:00 a.m. On Tuesday,  
11 November 15, 2004.

12 Let me ask you, did you have a meeting that day with some  
13 of the individuals in this case?

14 A. Could you refresh me as to what date we're talking about?

12:02:16 15 Q. November 16th.

16 A. I don't have a clear recollection of meeting with anyone  
17 else on that date without recollection.

18 Q. Let me direct your attention to Government's Exhibit 315  
19 again, I believe that's your calendar.

20 MR. BUSCH: If we could look at page 25.

21 May I approach the witness, your Honor?

22 THE COURT: Yes, you may.

23 BY MR. BUSCH:

24 Q. I hand you what's been marked -- or is in evidence as  
25 Government's 315.

12:02:55 1 Does that appear to be your calendar?

2 A. Yes, it is.

3 Q. Okay. There is a Post-It Note on page 25.

4 Is that your handwriting?

5 A. Yes, it is.

6 Q. Does that reflect a meeting with Don Hill at that  
7 Starbucks that morning?

8 A. Yes, it does.

9 Q. Now, do you recall whether or not later that day that you  
10 had a meeting at Pappadeaux?

11 MR. JACKSON: Your Honor, I'm sorry. I'm going to  
12 object. That doesn't say that he actually met Don Hill.

13 THE COURT: That's overruled.

14 BY MR. BUSCH:

12:03:35 15 Q. You may answer the question.

16 A. I'm sorry. The question is whether I met with Don?

17 Q. If there was a meeting later that day at a Pappadeaux  
18 Restaurant that evening for dinner?

19 A. I believe so.

20 Q. Do you recall who was there at that dinner at Pappadeaux?

21 A. I believe at that meeting was myself, Darren. And I'm  
22 not sure who else showed up at the meeting. I just don't  
23 recall at this time.

24 Q. Do you recall what the discussion was at that dinner at  
25 Pappadeaux?

12:04:28 1 A. I'm certain it was to discuss what had happened regarding  
2 the housing developments, and any other business that we may  
3 have been talking about.

4 Q. Do you recall if any of these other individuals that you  
5 have discussed also attended that dinner?

6 MR. GREENE: Your Honor, I object. It's been asked  
7 and answered.

8 THE COURT: Overruled.

9 A. No. I don't have a clear recollection of who else  
10 attended that meeting.

11 BY MR. BUSCH:

12 Q. Do you recall whether or not D'Angelo Lee attended  
13 that dinner --

14 MR. GREENE: Again, I would object. It's the third  
12:05:08 15 time, and he says he doesn't recall.

16 THE COURT: Overruled.

17 A. What I recall is that there were at least two meetings,  
18 and I'm not certain of the number of attendees at the second  
19 meeting. I know that there were more people there than Darren  
20 and myself. I can't be certain at this point whether or  
21 not -- or who the other individuals that were at that dinner  
22 meeting were.

23 Q. You said there are two meetings.

24 Are you referring to two meetings at Pappadeaux?

25 A. Yes.

12:06:03 1 Q. All right. Let's talk about the meeting that you have a  
2 clear recollection about. Okay?  
3 A. Yes. The meetings that I have a clear recollection about  
4 attended by D'Angelo, Kathy, myself, Darren.  
5 Q. When you say D'Angelo, are you referring to D'Angelo Lee?  
6 A. Yes, I am.  
7 Q. Kathy Nealy?  
8 A. Yes.  
9 Q. Okay. Do you recall what was the topic of discussion  
10 during that meeting, that dinner?  
11 A. That meeting, as I recall, involved who was going to be  
12 the spokesperson for -- who was going to control projects and  
13 events between the council person and the developer. The  
14 developers that wanted to put projects over in our area.  
12:07:05 15 Q. What was Darren Reagan's input in that discussion?  
16 A. Basically that he wanted to be that person.  
17 Q. What was D'Angelo Lee's input in that discussion?  
18 A. That he wanted to be that person.  
19 Q. Was there a discussion about the use of minority  
20 contractors?  
21 MR. GREENE: I object to asked and answered.  
22 THE COURT: Overruled.  
23 MR. GREENE: Repetitive.  
24 THE COURT: Overruled.  
25 A. Yes, I believe so.



12:07:31 1 BY MR. BUSCH:

2 Q. How about deed restrictions?

3 A. Yes.

4 Q. Do you recall what the discussion was about deed

5 restrictions?

6 A. Other than there was discussion about deed restrictions,

7 I don't recall specifically what the deed restrictions were.

8 Q. Let me direct your attention to Government's Exhibit

9 317.

10 Do you see this document that's before you?

11 A. Yes, I do.

12 Q. It says that, "The attached documents should mirror the

13 deed restrictions."

14 Do you recall -- do you recognize the handwriting on this

12:08:18 15 first page?

16 A. Yes, I do.

17 Q. Who is that?

18 A. Darren.

19 MR. BUSCH: If we look at the next page.

20 BY MR. BUSCH:

21 Q. If we look at these deed restrictions, did you

22 participate in the formation of these deed restrictions

23 starting with the BSEAT CDC community-based CDC will be

24 admitted into the ownership of the project."

25 Did you participate in the creation of those deed

12:08:49 1 restrictions that started with that sentence and continues to  
2 the bottom of the page?  
3 A. I believe I had some input into that.  
4 Q. Okay. What was the -- what was your motivation in  
5 attempting to impose these deed restrictions on the developer,  
6 Bill Fisher?  
7 A. We wanted to get a piece of the business, and we wanted  
8 to impose as many minority subcontractors as possible.  
9 Q. What was ultimately your goal or your purpose or your  
10 motive in imposing as many minority contractors as possible?  
11 A. Well, we were going to receive money back from these  
12 contractors if -- the subcontractors if we could.  
13 Q. What do you mean by that? How would you receive money  
14 back from the subcontractors?  
12:09:48 15 A. By them kicking it back.  
16 Q. All right. Let me move further ahead now to January of  
17 2005, and ask you to look at Government's Exhibit 167.  
18 Do you recognize the outside of that folder?  
19 A. Yes, I do.  
20 Q. Do you recognize the handwriting, sir?  
21 A. Yes.  
22 Q. Whose is it?  
23 A. That's Darren's writing.  
24 Q. If we look inside this folder, page 2, it appears to be a  
25 contract with independent contractor, and it -- the first

12:10:46 1 sentence of the first paragraph, it's between BSEAT and Gail  
2 Terrell doing business as Terrell & Associates. Is that  
3 correct?  
4 A. Yes, it is.  
5 Q. Okay. If we look at page 2 -- well, I'm sorry.  
6 If we look at the bottom of page 1, "The client will pay  
7 contractor \$1,500 a week."  
8 Were you aware of this contract that was being sought  
9 between your wife and BSEAT CDC?  
10 A. Yes.  
11 MR. BUSCH: If we look at the last page, page 4.  
12 BY MR. BUSCH:  
13 Q. Do you recognize the signatures on this page?  
14 A. Yes, I do.  
12:11:35 15 Q. Whose signatures are on this page?  
16 A. Darren's and Gail Terrell.  
17 Q. What was the purpose of this agreement? Why would there  
18 be a need to have a consulting agreement between your wife and  
19 BSEAT CDC?  
20 A. The contract was to provide consulting services to the --  
21 the Fisher, the housing developer. It was a direct means for  
22 me to get paid.  
23 Q. For you to get paid?  
24 A. Yes.  
25 Q. Unbeknownst to Bill Fisher because Gail Terrell was not

12:12:15 1 disclosed as your wife?

2 MR. VITAL: Object to leading.

3 A. That's correct.

4 THE COURT: Don't lead the witness.

5 BY MR. BUSCH:

6 Q. How would you get paid through this contract from the  
7 developer, Bill Fisher?

8 A. Through the contract with Gail Terrell.

9 Q. What information, if any, did you or Mr. Reagan or Gail  
10 give Bill Fisher that established the marital relationship  
11 between you and Gail Terrell?

12 A. None.

13 Q. Now, let me direct your attention to Government's  
14 Exhibit 168.

12:12:59 15 For the record, can you recognize the handwriting on this  
16 folder?

17 A. Yes, I do.

18 MR. BUSCH: May I approach the witness for a moment?

19 THE COURT: Yes, you may.

20 BY MR. BUSCH:

21 Q. Contained within this folder --

22 MR. BUSCH: If we look at page 2 of the exhibit.

23 BY MR. BUSCH:

24 Q. Does it appear to be another contract between BSEAT CDC  
25 and another entity, let's say?

12:13:31 1 A. Yes.

2 Q. Who is HD and Ola Reagan, the d/b/a is HDOJ & Associates?

3 A. HD and Ola Reagan are Darren's parents.

4 Q. Does it appear -- the second paragraph, does it also

5 relate to the Homes of Pecan Grove?

6 A. Yes, it does.

7 Q. Were you aware of this particular contract?

8 A. No, I was not.

9 Q. As an officer of BSEAT CDC why was it that you weren't

10 aware of this contract?

11 A. I have no idea other than it was never given to me.

12 Q. Let me direct your attention now to Government's

13 Exhibit 321.

14 Do you recognize this document, Mr. McGill?

12:14:42 15 A. I'm not certain that I received a copy of this, but I

16 think I have seen it since.

17 Q. It's a letter written to who?

18 A. Mr. Jafar.

19 Q. Who did you know Mr. Jafar to be?

20 A. I believe he was one of the owners, I believe, in

21 business -- he was one of the owners of one of the housing

22 developments.

23 Q. Okay. It looks like it says Odyssey Residential

24 Holdings?

25 A. Yes.

12: 15: 25 1 Q. Who was associated with that, Mr. Fisher, or  
2 Mr. Potashnik?

3 A. I believe Mr. Fisher. I believe.

4 Q. Now, let's look at the first paragraph.

5 THE COURT: We're going to stop when you're done  
6 with this exhibit.

7 MR. BUSCH: Yes, ma'am. I just have a few more  
8 questions, if you would like me to --

9 THE COURT: That's fine.

10 BY MR. BUSCH:

11 Q. It says, that last sentence, "Due to Bill's insistence,  
12 strong arm and hostage-holding tactics to get me to initial  
13 the revisions, I did so on a tentative basis."

14 This letter was written --

12: 16: 06 15 MR. BUSCH: If we look at page 5 of this exhibit --  
16 or page 4.

17 Perhaps page 3.

18 BY MR. BUSCH:

19 Q. All right. It was written by Darren Reagan. Is that  
20 right?

21 A. Yes.

22 MR. BUSCH: Now, if we go back to that first  
23 paragraph, that sentence I read.

24 If we highlight the sentence of the first paragraph.

25 The last sentence in that first paragraph, if we would

12: 16: 37 1 highlight it.

2 BY MR. BUSCH:

3 Q. When you see Darren Reagan writing and about someone  
4 else's insistence, strong arm and hostage-holding tactics,  
5 what is your impression?

6 A. Well, it's a bit ironic.

7 MR. BUSCH: Let's look at page 4 of this exhibit.

8 BY MR. BUSCH:

9 Q. Does that appear to be an invoice to BSEAT approved by --  
10 do you recognize the handwriting that's in blue on this  
11 exhibit?

12 A. Yes, I do.

13 Q. Is that Mr. Reagan's?

14 A. Yes, it is.

12: 17: 13 15 Q. Were you aware of this \$4,000 invoice for monthly car  
16 allowance, and monthly cellular phone allowance?

17 A. No, I was not.

18 MR. BUSCH: Lastly, page 7.

19 BY MR. BUSCH:

20 Q. Does it appear that the exhibit was sent by certified  
21 mail?

22 A. Yes.

23 MR. BUSCH: Your Honor, I have concluded with that  
24 exhibit.

25 THE COURT: All right. Ladies and gentlemen, we'll

12: 17: 52 1 go ahead and take our lunch recess. We'll resume at 25  
2 minutes of 2.

3 All rise for the jury.

4 (Jury retired from the courtroom.)

5 (Lunch recess.)

6 THE COURT: All right. Mr. Busch.

7 MR. BUSCH: Your Honor.

8 BY MR. BUSCH:

9 Q. Mr. McGill, I'm going to ask you is --

10 MR. BUSCH: Is the mic on?

11 There we go.

12 Thank you, your Honor.

13 BY MR. BUSCH:

14 Q. Mr. McGill, I'm going to ask you to look now at

13: 39: 33 15 Government's Exhibit 1958.

16 MR. BUSCH: If we could go off the Elmo, back to the  
17 United States.

18 Thanks.

19 BY MR. BUSCH:

20 Q. What was BSEAT's involvement going to be in particular --  
21 we have seen the contracts going back and forth and the  
22 revisions and all of that. Ultimately a contract was signed  
23 regarding Pecan Grove.

24 What was your organization with Darren Reagan, and that  
25 of your wife Gail, what was your organization's interest in



13: 40: 16 1 establishing a certain goal of minority contractors and having  
2 a list of preferred contractors?

3 A. Well, that would ensure that a certain number of  
4 subcontractors received work that we knew and could count on  
5 and that we could possibly receive money back from.

6 Q. Looking at this document do you recall this memo being  
7 created by your wife Gail?

8 A. Yes, I do.

9 Q. Okay. And what was the purpose of this particular memo?  
10 Was it sent to potential contractors?

11 A. Yes.

12 Q. Did you have a list -- when I say "you," you, Darren  
13 Reagan, have a list of preferred subcontractors?

14 A. Yes.

13: 41: 11 15 MR. BUSCH: If we could scroll down.

16 BY MR. BUSCH:

17 Q. And in this letter it says that there should be -- a  
18 certain amount of data should be provided that's related to  
19 the items that are enumerated on this letter.

20 Is that a fair statement?

21 A. Yes.

22 Q. Now, I want to direct your attention -- if you see at the  
23 top of this document -- the top of the page it appears to have  
24 been faxed on -- can you read the date?

25 A. February 1, 2005.

13: 41: 54 1 Q. Faxed by whom?

2 A. I'm assuming it was faxed by Gail.

3 Q. Well, if you look at the attention in the from, who does

4 it appear to be from?

5 A. From Gail Terrell to contractors.

6 Q. I'm sorry. If you are looking at the handwritten portion

7 above the printed portion.

8 A. It says from Dr. Darren Reagan to Saleem Jafar.

9 Q. All right. Now, if we can look at the -- were you aware

10 during this time frame -- or beginning in about a few days

11 from February 1st that the FBI was involved in the

12 investigation of this matter?

13 A. Yes.

14 Q. I mean, you're aware of that now. Were you aware that

13: 42: 52 15 the FBI was involved back in February of 2005?

16 A. I'm not certain I was aware at that time.

17 Q. Okay. If I -- the search that occurred at your house

18 occurred towards the end of June of 2005?

19 A. Yes.

20 Q. Was that the first information or knowledge that you had

21 that the FBI was involved in this investigation?

22 A. I believe so. It may have been an article or speculation

23 about it prior to that, but I don't have a clear recollection.

24 Q. Okay. But in any event, at the time of this memo in

25 February you were aware or unaware that the FBI was actively

13: 43: 30 1 investigating these matters?

2 A. I don't believe I was at this time.

3 Q. All right. During this time frame a number of telephone  
4 conversations were recorded between you and Darren Reagan.

5 Are you aware of that now?

6 A. Yes.

7 Q. We're going to play clip number 3 of Government's  
8 Exhibit 5450, a telephone conversation on February 8, 2005 at  
9 4:35 p.m.

10 (Audiotape clip 3, GX 5451 played.)

11 BY MR. BUSCH:

12 Q. All right. First of all, do you recognize your voice and  
13 that of Darren Reagan?

14 A. Yes, I do.

13: 46: 23 15 Q. When you talk about Bill Fisher pleading and begging and  
16 all of that, what are you referring to?

17 A. The contract that we had put forward to Bill, and he was,  
18 I believe, pretty reluctant about wanting to sign that, or  
19 agreeing to the conditions.

20 Q. If it was a legitimate business deal, why would he be  
21 pleading and begging?

22 A. Well, we had made it clear to him either sign this or his  
23 deal wouldn't go through.

24 Q. What do you mean by "his deal wouldn't go through"?

25 A. Politically he wouldn't be able to get the support to

13: 47: 03 1 push his deal through.

2 Q. Who was Darren Reagan working with in that regard?

3 A. He was working with Don.

4 Q. Don who?

5 A. Hill.

6 Q. Okay. In the last sentence of this clip there is talk  
7 about \$180,000 invoice by RA-MILL.

8 A. Yes. I don't have a recollection of just what that was  
9 in reference to at this time.

10 Q. Did you know at that time who was involved with RA-MILL?

11 A. I have no idea.

12 MR. BUSCH: If we could play now clip 8 from that,  
13 please, Ms. Christensen.

14 (Audiotape clip 8, GX 5451 played.)

13: 49: 16 15 BY MR. BUSCH:

16 Q. Whose contract would expire at the end of the month?

17 A. It may have been Bill Fisher's contract. I'm not certain  
18 of that.

19 Q. On a piece of property?

20 A. Yes.

21 Q. Was this conversation in regards to one of his projects  
22 that he wanted to get approved at the city council?

23 A. Yes.

24 Q. When you say that Darren Reagan was working with Don

25 Hill, what was Don Hill doing that was causing or allowing you

13: 49: 45 1 and Darren Reagan to put pressure on Bill Fisher?

2 A. It could have been delaying a project, or putting a

3 project off until an indefinite date.

4 MR. BUSCH: Now, let's play the last clip on this

5 regarding, 5450, clip 9, please.

6 (Audiotape clip 9, GX 5451 played.)

7 BY MR. BUSCH:

8 Q. So what did Darren Reagan mean when he said that they

9 have poisoned the well?

10 A. Well, I think he meant that instead of Bill Fisher coming

11 to him and dealing with him on this deal.

12 (Audiotape clip 9, GX 5451 played.)

13 MR. BUSCH: Pause that.

14 BY MR. BUSCH:

13: 52: 12 15 Q. Please continue.

16 A. Bill had tried to deal with someone else, perhaps

17 D'Angelo or someone else.

18 MR. BUSCH: Okay. Please continue.

19 (Audiotape clip 9, GX 5451 played.)

20 MR. BUSCH: Pause it.

21 BY MR. BUSCH:

22 Q. Reagan says, "That flushed him on back to D'Angelo."

23 What did he mean by that when he was talking to you?

24 A. Well, it meant that Fisher was unable to further any

25 discussions with Darren about the deal, so he had to go back

13: 54: 25 1 to D'Angelo to talk about how to get it done.  
2 MR. BUSCH: Please continue.  
3 (Audiotape clip 9, GX 5451 played.)  
4 BY MR. BUSCH:  
5 Q. Which guys are going to get money?  
6 A. I'm assuming that he means RA-MILL and others.  
7 MR. BUSCH: Please continue.  
8 (Audiotape clip 9, GX 5451 played.)  
9 BY MR. BUSCH:  
10 Q. All right. Mr. McGill, a couple of days after this there  
11 is another telephone conversation between you and Darren  
12 Reagan February 10, 2005 at 10:25 p.m.  
13 MR. BUSCH: It's Government's Exhibit 5460, clip  
14 1, please.  
13: 44: 03 15 (Audiotape clip 1, GX 5461 played.)  
16 MR. BUSCH: Pause it.  
17 BY MR. BUSCH:  
18 Q. Mr. McGill, why is Darren Reagan talking to you about  
19 he's not going to talk on the telephone with Fisher, and he's  
20 not going to go to his office to meet with him, but rather he  
21 wanted to meet him in a restaurant where it's noisy?  
22 A. Darren believed that Fisher was wired.  
23 Q. This is as early as February 10, 2005.  
24 Is that the date of this call?  
25 A. Yes.

13: 58: 08 1

MR. BUSCH: Please continue.

2

(Audiotape clip 1, GX 5461 played.)

3

MR. BUSCH: Stop there.

4

BY MR. BUSCH:

5

Q. Were you aware that -- do you know Prentice Gary?

6

A. Yes, I do.

7

Q. Who is Prentice Gary?

8

A. He's a major developer mainly involved in family projects here in Dallas.

9

10

Q. Is that someone that you know Bill Fisher had a relationship with?

11

12

A. I didn't know that Bill Fisher had a relationship.

13

MR. BUSCH: All right. Now, let's go to clip 2 of this conversation, please.

14

13: 44: 03 15

(Audiotape clip 2, GX 5461 played.)

16

MR. BUSCH: Let's listen to clip 3 of this particular call.

17

18

(Audiotape clip 3, GX 5461 played.)

19

BY MR. BUSCH:

20

Q. Mr. McGill, I notice your demeanor is different in court today than what I hear on these recordings.

21

22

What do you have to say about those comments that you and Reagan are making about Bill Fisher squirming, begging, pissing bricks, those various comments that are on these recordings that we have heard up to this point? What do you

23

24

25

14:03:13 1 have to say about that?

2 A. Pretty damn awful.

3 Q. The next day you have a conversation with Darren Reagan  
4 on February 11, 2005 at 10:44 a.m.

5 MR. BUSCH: Please, play 5464.

6 MR. JACKSON: Your Honor, I object to playing the  
7 recordings as being repetitious.

8 THE COURT: Overruled.

9 (Audiotape clip, GX 5465 played.)

10 MR. BUSCH: Stop it there.

11 BY MR. BUSCH:

12 Q. Mr. McGill, do you remember this conversation -- the rest  
13 of this conversation? We're not going to listen to it, but  
14 you continue to talk about the deferred developer fee and  
14:05:30 15 other costs associated with these projects?

16 A. Yes.

17 Q. Why is it that you and Mr. Reagan are discussing the  
18 deferred developer fee?

19 A. We were looking for a target of opportunity to increase  
20 our end.

21 Q. What do you mean by that?

22 A. If we can find where there is money that's going to  
23 directly to the developer, and then it gives us an opportunity  
24 to up our demand.

25 Q. Later that day at 6:06 p.m. you have another conversation



14:06:02 1

with Mr. Reagan.

2

MR. BUSCH: Government's Exhibit 5468, clip 2.

3

(Audiotape clip 2, GX 5469 played.)

4

BY MR. BUSCH:

5

Q. Mr. McGill, are you talking about Dallas West Village?

6

A. Yes.

7

Q. Is that the one project that's still pending that keeps getting passed at the city council?

8

9

A. Yes.

10

MR. BUSCH: I'm going to skip through the rest of

11

this conversation, but if you could get to the -- about a

12

minute from the end, Ms. Christensen.

13

(Audiotape clip 2, GX 5469 played.)

14

MR. BUSCH: Let's stop there.

14:08:38 15

BY MR. BUSCH:

16

Q. Mr. McGill, are you talking about sharing, or were you talking about extorting?

17

18

A. Extorting.

19

MR. BUSCH: Please continue.

20

(Audiotape clip 2, GX 5469 played.)

21

BY MR. BUSCH:

22

Q. What are you talking about earlier when you said that

23

the -- what was it the -- contributing to the Kitty, what was meant by that phrase?

24

25

A. That would be the fund that would be used to kickback

14:09:25 1 funds to Darren and myself.

2 Q. All right. Let me direct your attention now to  
3 Government's Exhibit 1965.

4 It appears to be a campaign fund-raiser from Don Hill.  
5 Do you see that document?

6 A. Yes.

7 Q. Dated February 16, 2005 around the time of these phone  
8 calls?

9 A. Yes.

10 Q. If we look down he says he's hosting an evening business  
11 mixer fundraiser.

12 Did you and Darren Reagan talk about this particular  
13 letter that was mailed to Bill Fisher?

14 A. I believe so.

14:10:09 15 Q. All right. The next call is on same the day, February  
16 16, 2005 at 7:03 p.m.

17 MR. BUSCH: Government's Exhibit 5472, clip 1.

18 (Audiotape clip 1, GX 5473 played.)

19 MR. BUSCH: Let's stop there.

20 BY MR. BUSCH:

21 Q. Mr. McGill, do you recall this conversation?

22 A. Yes, I do.

23 Q. How do you feel about these comments about Bill Fisher?

24 A. Pretty bad.

25 Q. The clip --

14: 11: 04 1

MR. BUSCH: May I have a moment, your Honor?

2

THE COURT: Yes.

3

(Sotto voce discussion between Busch and Meacham.)

4

MR. BUSCH: Your Honor, may I approach the bench?

5

THE COURT: Yes.

6

(Discussion at the bench.)

7

THE COURT: Okay.

8

MR. BUSCH: Mr. Meacham brought up the issue of the

9

redactions that the Potashniks have sought, and there was an

10

agreement where the Court, I think, decided that those

11

redactions were not relevant any longer since the

12

Potashniks --

13

THE COURT: They weren't being pursued by the other

14

defendants. I established that on the record.

14: 11: 59 15

MR. BUSCH: There is a clip here that's one of

16

those. I just wanted to make sure before I played it.

17

THE COURT: Those are not excluded now. They were

18

excluded before.

19

MR. BUSCH: Thank you, your Honor.

20

THE COURT: We'll have to wait a minute because I

21

think one of them stepped out.

22

(Back from the bench.)

23

THE COURT: Just wait for just a moment, please.

24

All right. Mr. Busch, thank you.

25

MR. BUSCH: Now, we'll play the second clip from

14: 13: 21 1 that recording, clip 2.  
2 (Audiotape clip 2, GX 5473 played.)  
3 MR. BUSCH: Stop it there.  
4 Put that back up. Just the text.  
5 BY MR. BUSCH:  
6 Q. Reagan talks about Brian. Is that Brian Potashnik?  
7 A. I would assume so.  
8 Q. Okay. "Don and them made him line up."  
9 Don refers to Don Hill?  
10 A. I would assume so.  
11 THE COURT: The screens are not working now.  
12 THE WITNESS: Yes. Mine is, your Honor.  
13 BY MR. BUSCH:  
14 Q. The next conversation occurred on February 18, 2005.  
14: 14: 13 15 MR. BUSCH: It's Government's Exhibit 5474, clip 2,  
16 please.  
17 (Audiotape clip 1, GX 5475 played.)  
18 BY MR. BUSCH:  
19 Q. Did you recognize the voice of Don Hill on this tape?  
20 A. Yes, I did.  
21 Q. All right.  
22 MR. BUSCH: Let's play clip 3.  
23 (Audiotape clip 3, GX 5473 played.)  
24 BY MR. BUSCH:  
25 Q. Was it your understanding that Darren Reagan told Don

14: 15: 45 1 Hill that the agreements were signed and money was flowing,  
2 that --

3 MR. STEINKE: To which we object to a leading  
4 question.

5 THE COURT: Sustained.

6 BY MR. BUSCH:

7 Q. What was your understanding as to when Don Hill, if ever,  
8 would vote to approve this project at city hall?

9 A. If and when the project was approved and the -- we would  
10 have started to receive our money, or we would have already  
11 gotten it.

12 Q. But before approving the project what would have to  
13 happen with you and Darren Reagan and Bill Fisher?

14 A. The deal would have to be done.

14: 16: 26 15 Q. Okay. Was there -- what conversation was there around  
16 this time about whether or not Bill Fisher was recording his  
17 conversations with Darren Reagan and Don Hill?

18 A. Well, there was some suspicion that Don (sic) was  
19 recording the conversations in some manner.

20 Q. That Don was recording?

21 A. I'm sorry. That Mr. Fisher was recording it in some  
22 manner.

23 Q. What was Don Hill's demeanor about that possibility?

24 A. I don't recall anything about Don's demeanor.

25 Q. What was Darren Reagan's demeanor about that?

14: 17: 04 1 A. He was highly suspicious.

2 Q. Okay. What evidence -- was there any evidence that Don

3 Hill represented BSEAT during this time frame, 2003 to 2005,

4 in any capacity as an attorney?

5 A. Not that I'm aware of.

6 Q. I'm going to direct your attention to an event that

7 occurred at Friendship West Baptist Church and ask you if you

8 recall being at that church and receiving a phone call from

9 Darren Reagan on February 22, 2005?

10 A. I do.

11 Q. All right.

12 MR. BUSCH: Let's play Government's Exhibit 5498.

13 (Audiotape clip, GX 5499 played.)

14 BY MR. BUSCH:

14: 18: 36 15 Q. Do you recall what the nature of the meeting was at the

16 church?

17 A. I believe it was a referendum on the strong mayor.

18 Q. Was Don Hill present?

19 A. I believe so.

20 Q. Darren Reagan -- what was purpose of this call?

21 A. It was to set up a payoff.

22 Q. Let me direct your attention to some photographs.

23 MR. BUSCH: Government's Exhibit 5121.

24 BY MR. BUSCH:

25 Q. Do you recognize this location, Mr. McGill?

14: 19: 12 1 A. Yes, I do.  
2 Q. And what is that location?  
3 A. It's Friendship West.  
4 Q. If we scroll through these photos, do you recognize the  
5 BMW that's in the front of this photograph?  
6 A. From later. I'm not certain whose car that is. I can  
7 only guess.  
8 Q. Okay. We have seen a number of photographs. I'm just  
9 going to speed that up.  
10 From this location, besides Don Hill -- well, let me ask  
11 you this.  
12 Were you present when a meeting took place in this  
13 parking lot?  
14 A. Yes.  
14: 19: 51 15 Q. Who was there at that meeting?  
16 A. I was there, Darren was there and D'Angelo was there.  
17 Q. Was Don Hill also involved in that meeting, or had that  
18 already taken place?  
19 A. I did not see Don Hill at that time.  
20 Q. At the time that you were talking to D'Angelo Lee and  
21 Darren Reagan?  
22 A. That's right.  
23 Q. Was that before or after the exchange after money? Or do  
24 you know?  
25 A. I don't know.

14: 20: 24 1 MR. STEINKE: That's a really leading question. We  
2 object.  
3 THE COURT: That's sustained. Rephrase your  
4 question, please.  
5 BY MR. BUSCH:  
6 Q. You said there was a payoff at the church.  
7 Was that at -- this meeting with D'Angelo and Darren, was  
8 that before or after the payoff, using your words?  
9 A. I'm sorry. Would you rephrase, please?  
10 MR. BUSCH: Okay. Well, let's go through the  
11 photographs.  
12 I think -- let's get to about 20 or 25.  
13 BY MR. BUSCH:  
14 Q. Do you recognize that individual?  
14: 21: 07 15 A. Yes, I do.  
16 Q. Is that Darren Reagan?  
17 A. Yes.  
18 MR. BUSCH: Scroll to about 25.  
19 BY MR. BUSCH:  
20 Q. Okay. Do you recognize the other individual with  
21 Mr. Reagan?  
22 A. Yes.  
23 Q. Who is that?  
24 A. That's D'Angelo Lee.  
25 MR. BUSCH: Okay. Continue to scroll.



14: 21: 28 1

BY MR. BUSCH:

2

Q. All right. Is this that location there at Friendship

3

West Baptist Church?

4

A. Yes, it is.

5

MR. BUSCH: Continue to scroll.

6

Stop.

7

BY MR. BUSCH:

8

Q. Do you recognize --

9

MR. BUSCH: The picture before this. 35.

10

BY MR. BUSCH:

11

Q. Do you recognize the individual in that car?

12

A. I believe I do.

13

Q. Who was that?

14

A. I believe that's Don Hill.

14: 21: 55 15

Q. Okay. Were you there when this encounter took place that

16

we see in this photograph?

17

A. No.

18

Q. What do you know about this payoff at the church?

19

A. I know what Darren told said to me, that it had

20

happened.

21

Q. Do you know how much money Darren Reagan paid Don Hill in

22

this parking lot?

23

A. No, I don't believe I do.

24

Q. Okay. Why did Darren Reagan pay this money to Don Hill

25

in the parking lot?

14: 22: 39 1 MR. STEINKE: Objection, foundation.

2 THE COURT: If you know.

3 A. I don't know.

4 BY MR. BUSCH:

5 Q. All right. There is a telephone conversation --

6 MR. BUSCH: Let's go to Government's Exhibit 5506,  
7 clip 2.

8 (Audiotape clip 2, GX 5507 played.)

9 MR. BUSCH: Stop it here for a second.

10 BY MR. BUSCH:

11 Q. This call is on February 23rd. It's the day after the  
12 photographs, and the event that occurred at church.

13 At that point in time what information did you have that  
14 Bill Fisher had paid money to Darren Reagan and BSEAT?

14: 25: 05 15 A. I didn't have any information other than what Darren had  
16 told me about that.

17 Q. All right. If I represent to you -- and the jury has  
18 already seen financial records for \$22,500 being paid to  
19 Darren Reagan the day before on the 22nd before the meeting at  
20 the church, what information did you have from Darren Reagan  
21 that he had received \$22,500 the day before?

22 A. I don't believe that he told me that.

23 Q. The jury has seen evidence that on January 31st Bill  
24 Fisher paid \$85,000 to BSEAT.

25 What information did you have that Bill Fisher paid

14: 25: 53 1 \$85,000 to BSEAT, the entity that you were the president of,  
2 on January 31, 2005?

3 A. I did not know that.

4 Q. The jury has seen evidence that other payments were paid  
5 by Bill Fisher in October of 2004, in the fall of 2004, 5,000  
6 and \$7,000, what information did you have as the president of  
7 BSEAT that those payments had been made?

8 A. I don't believe I knew about either of those payments.  
9 (Audiotape clip 2, GX 5507 played.)

10 MR. BUSCH: Stop there.

11 BY MR. BUSCH:

12 Q. Mr. McGill, what did you mean when you said, "It kept a  
13 proper distance between Don and whatever, that one stroke"?

14 A. It meant that put some separation between Don and the  
14: 27: 54 15 money.

16 MR. BUSCH: Please continue.

17 (Audiotape clip 2, GX 5507 played.)

18 MR. BUSCH: Stop there.

19 BY MR. BUSCH:

20 Q. What is Darren Reagan referring to, "I show him what the  
21 balance due on that is"?

22 A. I would assume that he means that there is --

23 MR. STEINKE: Objection to an assumption by the  
24 witness.

25 THE COURT: Sustained. If you don't know, say you

14: 29: 23 1 don' t know.

2 A. What he meant --

3 BY MR. BUSCH:

4 Q. Excuse me, Mr. McGill.

5 What information did you have that Darren Reagan and

6 BSEAT expected to receive additional --

7 MR. STEINKE: To which we object to a leading

8 question.

9 THE COURT: That's overruled. You may answer the

10 question.

11 BY MR. BUSCH:

12 Q. What information did you have that BSEAT expected to

13 receive any additional funds if there was a balance due?

14 A. We expected to get additional money from our share of the

14: 29: 57 15 increased developer's fee and from any subcontractors that we

16 could get money from.

17 MR. BUSCH: Please continue.

18 (Audiotape clip 2, GX 5507 played.)

19 MR. BUSCH: All right. Let's stop there.

20 BY MR. BUSCH:

21 Q. Mr. McGill, let me show you Government's Exhibit 73, and

22 I'll represent to you this document was found in Sheila

23 Farrington-Hill's residence.

24 MR. BUSCH: Government's Exhibit 73.

25 BY MR. BUSCH:

14: 31: 02 1 Q. Do you recall having seen this document before on any  
2 occasion?

3 A. I'm not certain I have seen this document before.

4 Q. All right. Entitled month of February 2005, the BSEAT  
5 CDC Project Management Team?

6 A. Yes.

7 Q. Now, if we look down at total amount pay due/prompt pay  
8 we see 50,000, and then the handwriting, do you recognize  
9 whose handwriting that is?

10 MR. STEINKE: Well, your Honor, I object. The  
11 witness said he's never seen the document. Foundation.

12 THE COURT: That's overruled. You may say if you  
13 recognize the handwriting.

14 A. That's Darren's handwriting.

14: 31: 44 15 BY MR. BUSCH:

16 Q. All right. We see 10,000 being subtracted from 50, and  
17 40,000 still being owed and approved by and whose signature is  
18 that?

19 A. That's Fisher's signature, I believe.

20 Q. The initials on the right.

21 But on the left, the approved?

22 A. That's Darren's signature.

23 Q. Do you know why this document would be at Sheila  
24 Farrington-Hill's residence?

25 A. I have no idea.

14: 32: 32 1

MR. BUSCH: Back to 5506, clip 3. That same  
conversation on February 23rd.

3 (Audiotape clip 3, GX 5507 played.)

4 BY MR. BUSCH:

5 Q. Mr. McGill, there has been a document introduced in this  
6 case that suggests that you made campaign contributions to Don  
7 Hill.

8 Let me direct your attention to Government's Exhibit  
9 559.

10 On the left side of this envelope there is the word --  
11 I'm not sure what the first word is, but the second word is  
12 "campaign contribution."

13 Do you see where I am on this document?

14 A. Yes.

14: 34: 16 15

Q. Then there is the abbreviation for the word received,  
16 2-22-05.

17 Do you see that?

18 A. Yes.

19 Q. It said a 1,000 from D'Angelo Lee, a 1,000 from Toska  
20 Lee, a 1,000 from Sheila Farrington, 780 from Darren Reagan  
21 and \$880 from Allen McGill.

22 Do you see that?

23 A. Yes, I do.

24 Q. Is that true?

25 A. No, it's not.

14: 34: 38 1 Q. On February 22, 2005 did you make a contribution of \$880  
2 to Don Hill?  
3 A. No, I did not.  
4 Q. Have you ever in your life made a contribution of \$880 to  
5 Don Hill?  
6 A. No, I have not.  
7 Q. I direct your attention now to Government's Exhibit 1817.  
8 MR. BUSCH: Page 3.  
9 BY MR. BUSCH:  
10 Q. This is a candidate officeholder report of Don Hill. The  
11 jury has already seen this document.  
12 MR. BUSCH: If we could look at page 4.  
13 Then continue on to page 35.  
14 BY MR. BUSCH:  
14: 35: 25 15 Q. It lists a number of contributions.  
16 MR. BUSCH: We look at the next page, 36.  
17 BY MR. BUSCH:  
18 Q. All right. On this campaign disclosure form, page 36,  
19 government's Exhibit 1817 it says that Allen McGill on  
20 February 2, 2005 made a \$1,000 contribution to the campaign of  
21 Don Hill.  
22 Do you see that?  
23 A. Yes, I do.  
24 Q. Is that a true statement?  
25 A. No, it's not.

14: 35: 56 1 Q. Have you ever made a \$1,000 contribution to Don Hill?  
2 A. No, I have not.  
3 Q. Have you ever made any contributions -- political  
4 contribution to Don Hill?  
5 A. Yes.  
6 Q. Do you recall when that was?  
7 A. I believe it was the night of his birthday party  
8 celebration, or New Year celebration. One or the other.  
9 Q. Do you remember the amount of the contribution that you  
10 made?  
11 A. \$100.  
12 Q. Was that by cash or check?  
13 A. Cash.  
14 Q. Is that the only campaign contribution you have ever made  
14: 36: 33 15 to Don Hill?  
16 A. That's the only contribution I ever made.  
17 Q. All right. Now, let's -- going back to this payoff  
18 behind the church that you describe, let's listen to  
19 Government's Exhibit 5500.  
20 (Audiotape clip, GX 5501 played.)  
21 BY MR. BUSCH:  
22 Q. Do you recall that conversation?  
23 A. Yes, I do.  
24 Q. What are you and Darren Reagan talking about?  
25 A. We're talking about the successful pressure that had been



14:38:16 1 put on Bill Fisher to get him to close the deal.

2 Q. Were there ever any occasions -- well, what occasion, if

3 any, do you recall talking with Darren Reagan about Don Hill's

4 ability to pull items off the agenda at city hall?

5 A. Yes. I have heard -- I have heard Darren mention that

6 occasion.

7 Q. All right. Let's listen to a call on March 4, 2005.

8 MR. BUSCH: Government's Exhibit 5536, clip 2.

9 (Audiotape clip 2, GX 5537 played.)

10 BY MR. BUSCH:

11 Q. So what was your understanding about D'Angel o Lee's

12 involvement in all of this?

13 A. That he was an active player.

14 Q. Another conversation on March 7, 2005 between Darren

14:42:18 15 Reagan and yourself.

16 MR. BUSCH: Government's Exhibit 5540, clip 1.

17 (Audiotape clip 1, GX 5541 played.)

18 MR. BUSCH: Okay.

19 BY MR. BUSCH:

20 Q. Now, let's go to a call later that day at 3:16 p.m.,

21 March 7, '05, between yourself and Darren Reagan.

22 MR. BUSCH: 5446, clip 3.

23 (Audiotape clip 3, GX 5547 played.)

24 MR. BUSCH: I'm sorry. I gave you the wrong number.

25 5546. Clip 3.

14: 47: 25 1 (Audi otape clip 3, GX 5547 played.)  
2 MR. BUSCH: All right. Let's stop there.  
3 BY MR. BUSCH:  
4 Q. What does it mean if Bill Fisher doesn't sign any  
5 contract, or amended contracts, what happens to his projects?  
6 A. They die.  
7 MR. BUSCH: Let's play clip 4.  
8 (Audi otape clip 4, GX 5547 played.)  
9 MR. BUSCH: Let's stop there.  
10 If we could fast forward about a minute or two. Go about  
11 a minute.  
12 (Audi otape clip 3, GX 5547 played.)  
13 MR. BUSCH: Let's go another minute, please.  
14 (Audi otape clip 3, GX 5547 played.)  
14: 49: 45 15 MR. BUSCH: Let's go another minute.  
16 (Audi otape clip 3, GX 5547 played.)  
17 BY MR. BUSCH:  
18 Q. Now, Mr. McGill, earlier in your testimony we talked  
19 about this document that you forged the signature of somebody  
20 with the Retail Initiative.  
21 Do you recall that testimony today?  
22 A. Yes, I do.  
23 Q. There is a telephone conversation that occurred on  
24 March 22, 2005 at 7:08 p.m.  
25 MR. BUSCH: It's Government's Exhibit 5880.

14: 50: 43 1 Let's play that conversation.  
2 (Audi otape cl ip, GX 5881 played.)  
3 MR. BUSCH: Let's stop there.  
4 BY MR. BUSCH:  
5 Q. What are you and Darren talking about, doing a dummy  
6 what?  
7 A. Partnership agreement.  
8 MR. BUSCH: Please continue.  
9 (Audi otape cl ip, GX 5881 played.)  
10 MR. BUSCH: Let's stop there.  
11 BY MR. BUSCH:  
12 Q. Whose address is that, 5801 Marvin D. Love Freeway?  
13 A. It's BSEAT.  
14 Q. It's that also the address of the Retail Initiative?  
14: 52: 41 15 A. No, it was not.  
16 Q. The P.O. Box, using the same P.O. Box, would that be  
17 true, in Retail Initiative P.O. Box here in Dallas?  
18 A. No.  
19 MR. BUSCH: Please continue.  
20 (Audi otape cl ip, GX 5881 played.)  
21 MR. BUSCH: Let's stop there.  
22 BY MR. BUSCH:  
23 Q. Okay. Mr. Reagan (sic), we looked at Government's  
24 Exhi bi t 3296.  
25 THE COURT: Mr. McGill. You said Mr. Reagan.

14: 55: 56 1

MR. BUSCH: I apologize.

2

BY MR. BUSCH:

3

Q. Mr. McGill, if we look again at Government's Exhibit

4

3296, page 18, do we see an address there for TRI with that PO

5

Box just as was discussed in that conversation with Darren

6

Reagan?

7

A. Yes.

8

Q. Okay. But the P.O. Box is -- that's actually BSEAT's

9

P.O. Box. Is that right?

10

A. Yes, it is.

11

Q. Mr. McGill, why did you plead guilty to committing the

12

conspiracy of extortion with Darren Reagan, D'Angelo Lee and

13

Don Hill?

14

MR. JACKSON: Your Honor, asked and answered.

14: 56: 47 15

THE COURT: Overruled.

16

A. Because I am guilty of extortion.

17

MR. BUSCH: Thank you. No further questions.

18

THE COURT: Cross-examination.

19

MR. STEINKE: Yes, ma'am.

20

THE COURT: Mr. Steinke.

21

***CROSS-EXAMINATION***

22

BY MR. STEINKE:

23

Q. Good afternoon, Mr. McGill. My name is Ted Steinke. I

24

represent Darren Reagan.

25

I don't believe you and I have ever met before, have we?

14: 57: 53 1 A. No, we have not.

2 Q. Okay. When you came to Dallas in the late 1980s how did

3 you happen to find out about BSEAT?

4 A. I believe I saw an announcement about a meeting -- or I

5 heard an announcement about a meeting.

6 Q. Why were you looking for an organization like that?

7 A. I was looking for an organization that played an active

8 role in the black community.

9 Q. Why is that?

10 A. Because that's what I have been involved in much of my

11 adult life.

12 Q. Where have you been involved in that prior to coming to

13 Dallas?

14 A. In Denver, Colorado and Brooklyn, New York.

14: 58: 53 15 Q. And what kinds of things was BSEAT doing that you wanted

16 to get involved with?

17 A. They were interested in discrimination issues and in

18 trying to bring additional retail into the Southern Sector of

19 Dallas.

20 Q. Were those things that you became interested in as well?

21 A. That's correct.

22 Q. You joined BSEAT sometime, I believe you said, in 1988 or

23 1989?

24 A. Yes.

25 Q. Gail Terrell did also, or was that later?

14:59:38 1 A. That was later, I believe.  
2 Q. When did y'all get married?  
3 A. In '02.  
4 Q. 2002?  
5 A. Yes.  
6 Q. So it's safe to say that you and Gail Terrell -- is it  
7 Terrell or Terrell?  
8 A. Terrell.  
9 Q. Terrell. That you and Gail Terrell were working at BSEAT  
10 before you were married?  
11 A. Yes.  
12 Q. Were you volunteers or were you getting paid?  
13 A. Volunteers.  
14 Q. Okay. Among the things that BSEAT did was host an annual  
15:00:17 15 banquet and award presentation, correct?  
16 A. That's correct.  
17 Q. What role did you play in that banquet and awards  
18 presentation?  
19 A. I helped to solicit corporations to help generally with  
20 coordinating the activities that went into organizing the  
21 banquet.  
22 Q. And was a program prepared so that attendees at the  
23 awards banquet and presentation could see what BSEAT had been  
24 doing the past year?  
25 A. That's correct.

15:01:01 1 Q. Were you an integral part in preparing these programs?  
2 A. Yes.  
3 Q. Okay. We have already had introduced into evidence  
4 Defendants' Reagan Exhibit Number 2.  
5 MR. STEINKE: Do we have that, Ms. Christensen?  
6 No. Okay. I guess we'll do it with the Elmo then.  
7 BY MR. STEINKE:  
8 Q. Okay. Does this appear to be the program for Saturday  
9 October 17, 1992?  
10 A. Yes, it does.  
11 Q. This was held at the Loews Anatole Hotel in Dallas,  
12 correct?  
13 A. That's correct.  
14 Q. Okay. Going to page 2 of this Defendant Reagan's Exhibit  
15:02:26 15 Number 2 this gives a brief history of BSEAT, correct?  
16 A. Yes, it does.  
17 Q. It says that it was organized in 1989, and "the purpose  
18 is to provide a structured support base for the minority state  
19 government employees and others who are under represented and  
20 disadvantaged regardless of their race, color, sex, religion  
21 or national origin."  
22 Was that your understanding of one of the things that  
23 BSEAT was doing?  
24 A. Yes, it is.  
25 Q. Did you support that?

- 15:02:56 1 A. Yes, I did.
- 2 Q. As part of the program for the people who were invited
- 3 did you prepare an operations overview kind of detailing what
- 4 BSEAT had done the past year?
- 5 A. Yes, I did.
- 6 Q. And in this particular one saying that in 1992, the
- 7 fiscal year, more than 250 ongoing business meetings and
- 8 discussions with major corporations, public agencies, small
- 9 businesses, civic organizations and community-based
- 10 organizations.
- 11 That actually happened?
- 12 A. Yes, it did.
- 13 Q. Did you play a role in a lot of those meetings?
- 14 A. Yes, I did.
- 15:03:49 15 Q. What was the purpose of those meetings?
- 16 A. To encourage business to locate south of the Trinity
- 17 River, and to increase minority employment.
- 18 Q. And to increase the interest of banks coming in to your
- 19 area of Dallas.
- 20 Did you help conduct neighborhood tours?
- 21 A. Yes, I did.
- 22 Q. Pointing out locations where banks could put a branch?
- 23 A. That's correct.
- 24 Q. Among other things?
- 25 A. That's correct.



15:04:19 1 Q. Do we see here in the operations overview that you  
2 prepared that among the people who toured Southeast Oak Cliff  
3 in the fiscal year 1992 was Tom Hoaglin, the president and CEO  
4 of BankOne, correct?  
5 A. Yes.  
6 Q. And John Adams, the chairman, and Terry Wilson, the vice  
7 chairman of Texas Commerce Bank?  
8 A. Yes.  
9 Q. David Berry, Jim Richards and others with Bank of  
10 America?  
11 A. Yes.  
12 Q. Mike Cornwall, president and CEO of Guaranty Federal  
13 Bank?  
14 A. Yes.  
15:05:03 15 Q. And Norman Brinker of Brinker International?  
16 A. Yes.  
17 Q. And the purpose of those tours was what?  
18 A. To familiarize corporate level senior managers with the  
19 market in the neighborhoods that we were asking them to serve.  
20 Q. You were also interested, were you not, in the lack of  
21 retail in Southeast Oak Cliff?  
22 A. Yes.  
23 Q. In fact, did you prepare in this 1992 program a  
24 demographic -- not a study, but a demographic listing of the  
25 area of Southeast Oak Cliff?

15:05:47 1 A. Yes, I did.

2 Q. Okay. It reflects that the total number of households in

3 the area was 33,750?

4 A. Yes.

5 Q. The average household income was 29,000 -- almost \$30,000

6 a year?

7 A. Yes.

8 Q. And the total number of banks in Southeast Oak Cliff was

9 what?

10 A. Total number of banks was zero.

11 Q. Total number of grocery chains?

12 A. One.

13 Q. How about restaurants?

14 A. Zero.

15:06:14 15 Q. How about movie theaters?

16 A. Zero.

17 Q. How about pawn shops?

18 A. 75.

19 Q. Check-cashing places?

20 A. 50.

21 Q. So it looks to me like the only retail of importance was

22 a Minyard's Food Store, correct?

23 A. Yes.

24 Q. Did BSEAT, among other things, hold job fairs?

25 A. Yes, they did.

15:06:49 1 Q. What was the purpose of job fairs?  
2 A. To provide an opportunity close to home for potential  
3 Africans to come in and apply for jobs with companies that had  
4 openings.  
5 Q. Did you and Darren Reagan and BSEAT invite corporations  
6 and businesses to come to these job fairs?  
7 A. Yes, we did.  
8 Q. Did you report on these job fairs in the programs?  
9 A. Yes.  
10 Q. Okay. This is the 1992 job placement and resume referral  
11 assistance program.  
12 Do you know who coordinated that?  
13 A. Yes, I do.  
14 Q. Who was that?  
15:07:37 15 A. The three people who are pictured here. Connie Buford,  
16 Valerea Murphy and Odell Lee.  
17 Q. They were volunteers also?  
18 A. Yes.  
19 Q. But they had -- they had a special interest in matching  
20 up members of the Southeast Oak Cliff community in jobs?  
21 A. Yes.  
22 Q. And among the companies who came and participated on  
23 June 6, 1992 are all of these companies, correct?  
24 A. Yes.  
25 Q. The jury can read those for themselves, but it included

15:08:17 1 the Dallas Police Department, correct?

2 A. Yes.

3 Q. A number of banks and grocery stores and restaurants?

4 A. Yes.

5 Q. Okay. How many job fairs would BSEAT hold each year?

6 A. I believe at one time we were holding two per year.

7 Q. Two per year. Okay.

8 Did BSEAT also have a legal fund?

9 A. Yes.

10 Q. Would you explain to the jury what the purpose of the

11 BSEAT Legal Fund, Inc. was?

12 A. To sponsor what we call -- there is a pro bono clinic

13 where we would bring volunteer lawyers, mainly housing

14 complaints and other types of complaints would have an

15:09:20 15 opportunity to come and get some kind of advice about what

16 they needed to get the issues resolved.

17 Q. And pro bono of course means for free?

18 A. Yes.

19 Q. So basically BSEAT was bringing lawyers into Southeast --

20 was this actually done in Southeast Oak Cliff?

21 A. Yes, it was.

22 Q. In a store front.

23 Do you remember where it was?

24 A. I believe it was in -- I think we used mostly local

25 churches.

15:09:56 1 Q. Okay. And volunteer lawyers would come in -- they  
2 weren't paid, were they?  
3 A. No, they were not.  
4 Q. They were volunteering their time?  
5 A. Yes.  
6 Q. They would assist local citizens, and here you say  
7 between 15 and 25 clients per week. Is that about right?  
8 A. Yes.  
9 Q. And among the things that they handled were housing  
10 discrimination?  
11 A. Yes.  
12 Q. Employment discrimination?  
13 A. Yes.  
14 Q. Consumer and finance problems?  
15:10:26 15 A. Yes.  
16 Q. Family law such as divorce or child custody?  
17 A. Yes.  
18 Q. And these were for clients who could not afford to hire  
19 their own attorney, correct?  
20 A. That's correct.  
21 Q. It also says that the program was receiving between 25  
22 and 35 calls per day for your assistance.  
23 A. That's correct.  
24 Q. And did BSEAT also award scholarships to high school  
25 seniors each year?

15: 11: 10 1 A. Yes, they did.

2 Q. Whose idea was it to start giving scholarships?

3 A. That was my idea.

4 Q. A very noble idea, correct?

5 A. Thank you.

6 Q. Right?

7 A. (No response.)

8 Q. Here in the program are photographs taken at the

9 Garden -- the Civic Garden Center.

10 Is that in Fair Park?

11 A. Yes, it is.

12 Q. And Dr. Yvonne Ewell, who was a DISD board member, was

13 the keynote speaker, correct?

14 A. That's correct.

15: 11: 43 15 Q. And there were over 250 people who attended?

16 A. That's correct.

17 Q. Somebody from Brinker International was there?

18 A. Yes.

19 Q. And then at the bottom this is a scholarship committee,

20 correct?

21 A. Yes.

22 Q. That's Gail Terrell, who is your wife now?

23 A. Yes.

24 Q. And then Connie Buford, Valerea Murphy, Linda Morgan and

25 Sheryl Colclough?

- 15: 12: 17 1 A. Yes.
- 2 Q. Besides the job fair -- job fairs, the scholarships, the
- 3 pro bono legal work that was being done, did BSEAT also become
- 4 involved in workshops dealing with the Community Reinvestment
- 5 Act and Business Development and Procurement?
- 6 A. Yes, we did.
- 7 Q. How many of these yearly would you do?
- 8 A. I think at least one a year.
- 9 Q. What would be the purpose of it?
- 10 A. To give an opportunity for small business people to have
- 11 an opportunity to meet procurement managers in business for --
- 12 with hopefully the outcome of small business operators getting
- 13 a chance to bid on business.
- 14 Q. Okay. There at the bottom is a photograph of Michael
- 15: 13: 29 15 Dulan, the district director of NationsBank and my client,
- 16 Darren Reagan, and Joyce Foreman, the owner of Foreman's
- 17 Office Products, correct?
- 18 A. That's correct.
- 19 Q. I assume both Michael Dulan and Joyce Foreman were there
- 20 giving their advice to small business people?
- 21 A. That's correct.
- 22 Q. Then finally on Reagan's Exhibit Number 2 BSEAT also gave
- 23 out a community service award every year, didn't it?
- 24 A. Yes, it did.
- 25 Q. What was the purpose of the Community Service Award?

15: 14: 16 1 A. To recognize companies that we felt had made a  
2 significant contribution toward the vision that we had as an  
3 organization.  
4 Q. What was that vision?  
5 A. To increase procurement opportunities, employment  
6 opportunities and addressing other issues we have had on our  
7 agenda.  
8 Q. And in 1992 the award went to Thomas Hoaglan, the  
9 president and chief operating officer of BankOne, correct?  
10 A. That's correct.  
11 Q. Why did BSEAT award this Community Service Award in 1992  
12 to Thomas Hoaglin?  
13 A. Because he had gone a long ways towards helping to make  
14 banking and credit more available in our community, and he was  
15: 15: 11 15 very sympathetic to some of the things that the organization  
16 was trying to do.  
17 Q. In fact, there is a photograph here of Darren Reagan, Tom  
18 Hoaglin, Mayor Steve Bartlett. He was the mayor of Dallas?  
19 A. Yes.  
20 Q. And a much younger looking Allen McGill?  
21 A. Yes.  
22 THE COURT: Is that a convenient point to break?  
23 MR. STEINKE: Yes, ma'am.  
24 THE COURT: Ladies and gentlemen, we will be in  
25 recess for 15 minutes.



15: 15: 44 1

MR. WILLIAMS: All rise for the jury.

2

(Jury retired from the courtroom.)

3

THE COURT: How long would you anticipate?

4

MR. STEINKE: At least another hour for me, your

5

Honor.

6

THE COURT: How long, Mr. Jackson?

7

MR. JACKSON: 30 to 45 minutes.

8

THE COURT: Well, I don't think you're going to get

9

to another witness.

10

MR. BUSCH: Thank you, your Honor.

11

(Jury returned to the courtroom.)

12

THE COURT: All right. Be seated, please.

13

Mr. Steinke.

14

BY MR. STEINKE:

15: 38: 59 15

Q. Mr. McGill, I believe on direct examination you also said

16

that one of the things that BSEAT did was picket, correct?

17

A. Yes.

18

Q. And that you believed that in certain circumstances

19

picketing was a legitimate constitutional exercise, correct?

20

A. Yes.

21

Q. And in Reagan's Exhibit Number 2 the 1992 program there

22

are actually some photographs of people picketing, and in this

23

case it was First Gibraltar Bank.

24

Do you recall that?

25

A. Yes, I do.

15: 39: 39 1 Q. And the reason for the picketing was that out of 167  
2 branches statewide there was zero branch managers, correct?  
3 A. That's correct.  
4 Q. Zero African-American department heads?  
5 A. Yes.  
6 Q. Zero African-American senior management?  
7 A. Yes.  
8 Q. And out of 167 statewide branches only one  
9 African-American female supervisor?  
10 A. That's correct.  
11 Q. You felt that that ought to be rectified?  
12 A. Yes.  
13 Q. In 1993 the award presentation was held at the Loew's  
14 Anatole Hotel on October 30th, correct?  
15: 40: 32 15 A. That's correct.  
16 MR. STEINKE: I'm referring now for the record to  
17 Reagan's Number 3, which has been admitted into evidence.  
18 BY MR. STEINKE:  
19 Q. There was an introductory letter to the attendees from  
20 you, correct?  
21 A. That's correct.  
22 Q. At the bottom, after welcoming everybody, you say a  
23 special word to Darren Reagan.  
24 "Your leadership and courage is what makes the Black  
25 State Employees Association of Texas an effective

15: 41: 06 1 communi ty-based organi zati on. "

2 Correct?

3 A. That's correct.

4 Q. Then you say, "Please stay on the battle field. Al uta

5 Continua. "

6 What does that mean?

7 A. Continue to struggle, I think.

8 Q. Okay. That year in 1993 you selected three indi vi dual s

9 for the Communi ty Servi ce Award, correct?

10 A. I did not select them, no.

11 Q. BSEAT selected them?

12 A. Yes.

13 Q. And that was Mi chael Dul an of Nati onsBank, Davi d Berry of

14 Bank of Ameri ca, and Rick Parsons of Nati onsBank?

15: 41: 50 15 A. That's correct.

16 Q. Now, besides the pro bono legal work and the job fai rs

17 and the schol arshi ps did BSEAT also have what is called a

18 grievance redress commi ttee?

19 A. Yes, i t di d.

20 Q. That was chai red by Euna Robertson, correct?

21 A. That's correct.

22 Q. Would you tel l the jury what the grievance redress

23 commi ttee di d?

24 A. The grievance redress commi ttee tried to help indi vi dual s

25 that had compl aints against mai nly agencies that del i vered

15: 42: 40 1 social services.

2 Q. And what kinds of complaints would be handled?

3 A. Not receiving checks on time or couldn't get certified or

4 those kinds of issues.

5 Q. Okay. According to -- did you write this report too?

6 A. No, I did not.

7 Q. But according to this report it said referrals were made

8 to the EEOC, the Department of Labor, Department of Education,

9 Office of Civil Rights Compliance and private attorneys?

10 A. That's correct.

11 Q. Then it lists a number of things that happened in the

12 year 1992, 1993, correct?

13 A. Yes.

14 Q. And BSEAT was proud of that, weren't you?

15: 43: 28 15 A. Yes.

16 Q. BSEAT was also involved in community stabilization

17 projects, wasn't it?

18 A. Could you help me with that?

19 Q. Well, here in the 1993 program at the bottom there is a

20 view of the Village Fair Shopping Center, Loop 12 and I-345, a

21 BSEAT stabilization project.

22 Can you describe to the jury what that is. A BSEAT

23 stabilization project.

24 A. I'm thinking that this was a project that -- a potential

25 project that we had looked at in terms of revitalization.

15: 44: 32 1 Q. Okay. There was a time in 1992 when the residents of  
2 Southeast Oak Cliff were fighting the closing of a K-Mart,  
3 correct?  
4 A. That's correct.  
5 Q. In fact, BSEAT organized a number of protests concerning  
6 that, didn't it?  
7 A. We did.  
8 Q. Is that you there on the right-hand side in the white  
9 shirt -- or the white jacket talking to this group of people?  
10 A. It is.  
11 Q. Okay. The purpose was to do what?  
12 A. To try and get K-Mart to consider -- reconsider closing  
13 the store.  
14 Q. Okay. In this program there is a document from the City  
15 of Dallas dated December 17, 1992 written by Darren Reagan in  
16 which the author says, "The City is very interested in the  
17 economic stability of the Southeast Oak Cliff community, and  
18 has taken steps."  
19 Then they talk about the different steps the City has  
20 taken including identifying owners and available lease space  
21 within Village Fair Shopping Center, conducting personal  
22 interviews with tenants, mail surveys to area residents and  
23 trying to figure out what do with the K-Mart building if the  
24 K-Mart actually leaves?  
25 A. That's correct.

15: 46: 05 1 Q. Then at the bottom in the last paragraph it says, "The  
2 City of Dallas is committed to your efforts to revitalize  
3 Southeast Oak Cliff, and will continue to work with your  
4 organization to identify and promote minority business  
5 development."

6 This is signed by Dennis Martinez, Director of Economic  
7 Development Department of the City of Dallas.

8 Did you see that letter?

9 A. Yes.

10 Q. Okay. There was also a letter in here from BankOne dated  
11 November 24, 1992 talking about a meeting that the author of  
12 this letter had with you and Allen McGill expressing an  
13 interest in pursuing -- or expressing an interest in pursuing  
14 with appropriate employees of BankOne the following things.

15: 47: 05 15 Minority participation, minority procurement, new branch  
16 locations and loan activity in minority communities.

17 Were those things really important to you and BSEAT?

18 A. Yes, they were.

19 Q. And you met with a senior official of BankOne to try to  
20 get the process started, correct?

21 A. That's correct.

22 Q. And who was the banking officer that you met with?

23 A. Jerry Killingsworth.

24 Q. He's now the head of the City of Dallas Department of  
25 Housing, correct?

15: 47: 34 1 A. Yes, sir, I believe so.

2 Q. And on October 7, 1993 there was a meeting with the

3 University of Texas system board of regents.

4 Were you there at that meeting?

5 A. Yes, I was.

6 Q. Can you tell the jury what happened?

7 A. I believe that this -- the meeting -- I don't have a

8 clear recollection of what happened at the meeting, but I

9 think that this was a meeting where we had -- we got an

10 agreement with UT to provide consideration for student

11 scholarships and some other items.

12 Q. Okay. Did it also have to do with a vacancy at the

13 University of Texas at Dallas in the presidency?

14 A. Yes, it did.

15: 48: 47 15 Q. Okay. I'm not going to go over all of the books, the

16 programs that are in evidence, but this is the one in

17 September 10, 1994, and it is Reagan's Exhibit 4.

18 Okay. That was at the Loew's Anatole?

19 A. Yes.

20 Q. And the keynote speaker was who?

21 A. Ron Kirk.

22 Q. At the time he was the Secretary of State of Texas?

23 A. Yes.

24 Q. Later became mayor of Dallas?

25 A. Yes.

15: 49: 18 1 Q. Now he is the United States Trade Representative,  
2 correct?

3 A. That's correct.

4 Q. And then at this particular event you honored local  
5 African-American leaders in higher education, right?

6 A. Yes.

7 Q. Among those was the new president of the University of  
8 Texas at Dallas, Dr. Franklyn Jennifer?

9 A. Yes.

10 Q. Okay. And African-American presidents of Texas Women  
11 University, Paul Quinn, El Centro and Brookhaven, right?

12 A. That's correct.

13 Q. Now, in 1994 you also mentioned things that have been  
14 done by the various parts of BSEAT.

15: 50: 29 15 Up at the top, "The Black State Employees Association of  
16 Texas, Inc. conducting public forums, filing class actions,  
17 sponsoring career fairs, fund raising, awards banquets,  
18 technical assistance to NBO."

19 What is an NBO?

20 A. Neighborhood-based organizations.

21 Q. And the residents, right?

22 A. Yes.

23 Q. Okay. You have a social service fund that sponsors  
24 scholarships and career fairs?

25 A. Yes, that's correct.



15:51:00 1 Q. And the legal fund, which you have already talked about,  
2 that provides pro bono work?  
3 A. Yes.  
4 Q. Then we see on the left-hand side the BSEAT Community  
5 Development, Inc.  
6 Can you tell -- is that the CDC?  
7 A. Yes, it is.  
8 Q. Can you tell the jury what the purpose of the CDC was?  
9 A. It was mainly to acquire property or rehabilitation or  
10 construct new projects.  
11 Q. Okay. Did it also include being involved in obtaining an  
12 ownership interest in development projects?  
13 A. Yes, it was.  
14 Q. Okay. Were you an officer of the CDC?  
15:51:39 15 A. Yes, I was.  
16 Q. And did -- was one of the purposes of the CDC not only to  
17 get an ownership interest in the developments, but to also  
18 maybe share in the management of those projects?  
19 A. Yes.  
20 Q. Okay. So when you and Darren Reagan were talking to Bill  
21 Fisher about getting an ownership interest in his projects  
22 that would have been in line with what the CDC was originally  
23 set up for, right?  
24 A. Well, what we were talking about were acquiring an  
25 interest that would benefit ourselves.

15: 52: 26 1 Q. But one of the things that the CDC was set up to do  
2 was -- I'll get to that in a minute -- but one of the things  
3 the CDC was set up to do was to acquire, if possible, an  
4 ownership interest in projects and developments, correct?  
5 A. That's correct.  
6 Q. You stated that in response to a question from the  
7 prosecution that BSEAT sort of changed in the time frame 2000,  
8 2002, 2003.  
9 Do you recall saying that?  
10 A. Yes, I do.  
11 Q. Okay. Let me show you the program from the 14th Annual  
12 Banquet and Awards Presentation at the Renaissance Dallas  
13 Hotel on November 8, 2003. Do you recognize this?  
14 A. Yes, I do.  
15: 53: 59 15 MR. STEINKE: For the record, your Honor, this is  
16 Defendants' Exhibit Reagan 13.  
17 BY MR. BUSCH:  
18 Q. And did you help Mr. McGill prepare this program?  
19 THE COURT: Excuse me. That's Mr. McGill.  
20 MR. STEINKE: I said McGill?  
21 BY MR. STEINKE:  
22 Q. Did you help, Mr. McGill -- that is a comment there.  
23 Mr. McGill, I got ahead of myself.  
24 Mr. McGill, did you help prepare this program?  
25 A. Yes, I did.

15: 54: 32 1 Q. Not that you helped yourself, but you helped prepare the  
2 program?

3 THE COURT: Okay. I'm sorry I mentioned it.

4 (Laughter)

5 BY MR. STEINKE:

6 Q. Among the things that was in the program was a letter of  
7 congratulations from Congresswoman Eddie Bernice Johnson?

8 A. Yes.

9 Q. And in her second paragraph she writes, "BSEAT is widely  
10 recognized as one of the most effective socioeconomic engines  
11 powering African-American communities in the State of Texas,  
12 right?

13 A. Yes.

14 Q. This is in the year 2003, correct?

15: 55: 11 15 A. Yes.

16 Q. And in this program is a letter from Governor Rick Perry  
17 dated November 5, 2003, correct?

18 A. Yes.

19 Q. Okay. And it says that, "The Texans of the 21st Century  
20 reflects our vision, ingenuity and enterprise in working  
21 towards a future of excellence."

22 And he congratulates BSEAT on recognizing the work of  
23 Dr. Franklyn Jennifer, the president of UT Dallas, correct?

24 A. That's correct.

25 Q. Then there is next to it a proclamation, senate

15: 56: 11 1 proclamation 295 from the State of Texas Senate, right?

2 A. Yes.

3 Q. And it also mentions that BSEAT in 2003 was honoring  
4 Dr. Franklyn Jennifer?

5 A. That's correct.

6 Q. Then there is a letter dated November 7, 2003 from the  
7 City of Dallas saying that, "I appreciate the opportunity to  
8 express my support of the Black State Employees Association of  
9 Texas celebrating its 14th Annual Banquet. I am truly  
10 impressed with this organization, would like to commend them  
11 for making the effort to recognize corporations, individuals  
12 and members for their contributions, commitment and community  
13 service toward further development and enhancement of the  
14 African-American community."

15: 57: 17 15 Right?

16 A. That's correct.

17 Q. Who signed that letter?

18 A. Laura Miller.

19 Q. There is a page in this 2003 program that talks about the  
20 partnership of BSEAT and Bally Total Fitness.

21 Do you see that?

22 A. Yes.

23 Q. It says, "Historic donation of over \$300,000 in exercise  
24 equipment to the Dallas Independent School District."

25 Can you tell the jury what this is referring to, and what

15: 58: 01 1 role BSEAT played in this?

2 A. This has -- I'm not certain what year the donation was  
3 actually made.

4 Q. But what was the purpose of the donation? How was it  
5 used?

6 A. It was -- Bally's decided to donate its used equipment,  
7 equipment that they currently used in many of their spas to  
8 BSEAT, and BSEAT in turn donated much of that equipment, not  
9 100 percent of it, to ISDs in the metropolitan areas.

10 Q. Including DISD?

11 A. Yes.

12 Q. This says that DISD got about \$300,000 worth of  
13 equipment?

14 A. I assume so.

15: 59: 06 15 Q. And in the place for advertisements there is an  
16 advertisement for Terrell & Associates, right?

17 A. Yes, it is.

18 Q. That's Gail Terrell, your wife?

19 A. Yes, it is.

20 Q. And in this it says that she and her company provide  
21 consulting services for project coordination planning,  
22 budgeting, contract negotiations, event planning, project  
23 coordination financing and development team coordination.

24 Does she in fact -- is she able to provide all those  
25 services?

15: 59: 44 1 A. Yes.

2 Q. It's legitimate, isn't it?

3 A. Her company is legitimate, yes.

4 Q. And the last one I want to talk about is the one that

5 occurred on October 23, 2004 at the Renaissance Hotel ,

6 Reagan Exhibit Number 14.

7 Do you recognize that?

8 A. Yes, I do.

9 Q. On the front cover is a photograph of the West Cliff

10 Shopping Plaza, correct?

11 A. Yes, it is.

12 Q. And it says it was owned and developed by BSEAT?

13 A. Yes.

14 Q. That in fact is true, isn't it?

16: 00: 36 15 A. Yes.

16 Q. Or it was developed and owned at one time by BSEAT?

17 A. Yes.

18 Q. Was this award presentation and banquet in October of

19 2004 the last one that BSEAT did?

20 A. I believe so, yes.

21 Q. That was because in June of 2005 the FBI came and raided

22 the offices?

23 A. Well, it was the last one that we did, yes.

24 Q. Okay. If there had been one in 2005 it would have taken

25 place in October or November of 2005?

16:01:31 1 A. That was the normal time, yes.  
2 Q. The target letter that you got from Marcus Busch, do you  
3 recall when you got that?  
4 A. I believe it may have been in the late summer of '05  
5 maybe.  
6 Q. And you said that you knew you had committed an offense,  
7 and you looked for the opportunity to do the right thing?  
8 A. Yes.  
9 Q. Because you knew all along that you had committed a  
10 offense, didn't you?  
11 A. I'm not certain I understand your question.  
12 Q. Well, did you believe you were committing an offense  
13 while you were doing what you have described to the jury?  
14 A. Yes, I did.  
16:02:44 15 Q. After the FBI raided the BSEAT offices in June of 2005,  
16 did you believe that you had committed an offense?  
17 A. (No response.)  
18 Q. Mr. McGill?  
19 A. I believe so, yes.  
20 Q. Okay. Yet you met with the FBI eight days after the  
21 raid, did you not?  
22 A. I don't recall, but it was close after.  
23 Q. Well, you met with two FBI agents in June of 2005,  
24 correct?  
25 A. That's correct.

16:03:26 1 Q. You know that they were taking notes and they reduced  
2 what you told them to a document that's called a 302?  
3 A. Yes.  
4 MR. STEINKE: May I approach?  
5 THE COURT: Yes, you may.  
6 BY MR. STEINKE:  
7 Q. Okay. Now, did that help refresh your memory as to the  
8 date?  
9 A. As to the date, yes.  
10 Q. It was June 28, 2005?  
11 A. That's correct.  
12 Q. In this interview with the FBI did you ever tell them  
13 anything about your involvement in an extortion ring?  
14 A. I don't believe that I used the word "extortion."  
16:04:08 15 Q. Did you ever tell them that you were involved in getting  
16 money from public officials, or giving money to public  
17 officials? Did you ever tell them that?  
18 A. No, but I had not.  
19 Q. But in fact all through this interview with the FBI you  
20 maintained that BSEAT was a legitimate corporation, and that  
21 you and Darren Reagan had done nothing wrong. Isn't that  
22 right?  
23 A. No, I did not say that.  
24 Q. Okay. If you had admitted wrongdoing in 2005 why do you  
25 think it took two years for the FBI and the U.S. Attorney's



16:04:52 1 Office to send you a target letter.

2 MR. BUSCH: Objection, it's irrelevant. It calls  
3 for speculation.

4 THE COURT: Excuse me. If you know, you may answer.  
5 If you don't, don't speculate. Otherwise overruled.

6 BY MR. STEINKE:

7 Q. Let me ask it this way.

8 Did you confess to the FBI on June 28, 2005 and tell them  
9 that you knew you had committed an offense and you were  
10 looking for the opportunity to do the right thing?

11 A. I didn't use those words, no.

12 Q. It wasn't until two years later that you tell the jury  
13 that that's what you did?

14 A. That's correct.

16:05:33 15 Q. Now, we talked about the plea agreement that you have,  
16 and you testified that under the plea agreement the only  
17 promises you got were, number one, that the government would  
18 dismiss the indictment against you after the case is over,  
19 correct?

20 A. Yes, I believe so.

21 Q. And number two, that there was a five-year maximum term  
22 of imprisonment you were looking at?

23 A. That's correct.

24 Q. So those were the only two terms that you can recall?

25 A. Well, there is one other, and that is that the government

16:06:40 1 has the option of -- of putting forth a motion for a downward  
2 revision.  
3 Q. Okay. And you're of course referring to the fact that in  
4 the government's discretion they can reward you for what is  
5 called substantial assistance, correct?  
6 A. That's correct.  
7 Q. Did they tell you what substantial assistance means?  
8 A. They didn't tell me -- no, they did not. It's up to them  
9 to determine what that is.  
10 Q. Okay. Do you understand that it includes testifying  
11 against the defendants here?  
12 A. Yes.  
13 Q. Okay. But there is one other promise that they made to  
14 you, isn't there?  
16:07:30 15 Didn't they also promise that they would not bring any  
16 additional charges against you out of your conduct, or based  
17 upon your conduct. Isn't that true?  
18 A. Yes, I believe so.  
19 Q. Okay. You testified about some signature that you forged  
20 involving the sale of the West Cliff Shopping Center.  
21 Do you have an agreement that you're not going to be  
22 prosecuted for that forgery?  
23 A. That's correct.  
24 Q. Okay. Do you understand that forgery is also a state  
25 crime?

16:08:12 1 A. Yes, I do.

2 Q. Do you have a guarantee that the State of Texas is not

3 going to prosecute you for that forgery?

4 A. I do not.

5 Q. When you were discussing the plea agreement with the

6 government did they also tell you that if you pled guilty they

7 would not prosecute your wife, Gail Terrell?

8 A. No, they did not.

9 Q. Apparently she was involved in forging that signature,

10 wasn't she?

11 A. No, she was not.

12 Q. Well, wasn't she on the audiotape discussing it with you

13 and Darren Reagan?

14 A. Yes, she was.

16:08:48 15 Q. So did she know that that signature was forged?

16 A. She did not.

17 Q. She did not.

18 Okay. So the government -- tell me what conversation you

19 had with the government about whether or not they would

20 prosecute your wife?

21 A. We did not have a conversation about prosecuting my wife.

22 Q. It never came up?

23 A. It never came up.

24 Q. You told the jury that you were guilty of extortion?

25 A. That's right.

16:09:21 1 Q. Define extortion. What are you guilty of?

2 A. Exerting pressure on a developer to delay or have his

3 project killed if he doesn't pay money to me.

4 Q. Okay. And how much money did any developer pay to you?

5 A. Zero.

6 Q. I'm sorry?

7 A. Not any.

8 Q. So your plan of extortion was to exert pressure on a

9 developer or developers by delaying or stopping their projects

10 so that they would pay you money?

11 A. That's correct.

12 Q. Okay. You did not get one dime?

13 A. No, I did not.

14 Q. You testified regarding Government's Exhibit 382, and

16:10:21 15 that is the moratorium letter that Darren wrote on August

16 24th.

17 You saw that earlier today?

18 A. Yes, I did.

19 Q. And you told the jury that the motivation in preparing

20 that letter was that it would help in possibly delaying

21 pending applications?

22 A. Yes, I did.

23 Q. What did you mean by that?

24 A. Well, I meant that moratorium on a developer's project,

25 particularly those that are under closer deadlines, means that

16:11:00 1 they would need to get their project approved as quickly as  
2 possible. So any moratorium would put a great deal of  
3 pressure on a developer to try to move the project as best he  
4 could.

5 Q. Well, I thought a moratorium is where the City said we  
6 were not going to allow your projects to go forward.  
7 Isn't that your understanding of the moratorium?

8 A. Well, the City -- the city council gives their approval,  
9 yes.

10 Q. Well, if your plan is to put pressure on the developers  
11 to get their projects going very fast, tell me and the jury  
12 how stopping their projects with a moratorium is going to help  
13 you in your plan?

14 A. I'm sorry. I didn't understand the question.

16:11:48 15 Q. If your plan is to get the developers to start moving  
16 their projects faster -- and that's your plan, correct?

17 A. No, that's not my plan.

18 My plan is to get paid. If that means that I need to  
19 slow the project down or have the project stopped or speed the  
20 project up.

21 Q. Okay. I may have misunderstood, but I thought you said  
22 that you were trying to put pressure on the developers so they  
23 would speed up their projects.

24 I assume so that you could get paid faster.

25 Does that make sense?

16: 12: 26 1 A. Your statement makes sense, but I didn't use the word  
2 "speed up."  
3 Q. Okay. Were you actually hoping to speed up the projects  
4 so you would be paid faster?  
5 A. Well, if that happens, certainly.  
6 Q. So if that was the case, tell me how asking the city  
7 council to do a moratorium and to stop all projects was going  
8 to help you get paid faster?  
9 A. Because the developer was not cooperating.  
10 Q. No. But how was that going to help you get paid faster?  
11 A. Give us more time to muscle the developer around.  
12 Q. Okay. When you spoke at the city council on August 25,  
13 2004 were you also aware that Jerry Killingsworth was in favor  
14 of the moratorium?  
16: 13: 18 15 A. Yes, I believe so.  
16 Q. That mayor Laura Miller was in favor of the moratorium?  
17 A. Yes.  
18 Q. And Mr. Busch asked you when you were talking about the  
19 moratorium what your primary concern was, and you said our  
20 primary motivation was to delay to help get our deals done.  
21 And he asked you what deals are you talking about, and  
22 you said we're -- we were trying to negotiate contracts with  
23 one or more developers, and if there was a delay, that would  
24 put pressure on them.  
25 Do you remember that?

16:13:56 1 A. Yes, I do.

2 Q. And you said the two developers were Bill Fisher and

3 Brian Potashnik?

4 A. Yes.

5 Q. Now, this was an August 25, 2004 city council meeting,

6 correct?

7 A. I believe so.

8 Q. If one of the developers that you were putting pressure

9 on was Bill Fisher, can you explain to the jury why Bill

10 Fisher did not meet you and Darren Reagan until November or

11 October of 2004?

12 A. I can't explain that.

13 Q. All right. When did you first meet Bill Fisher?

14 A. I don't recall specifically.

16:14:40 15 Q. In fact, it was September 20, 2004, wasn't it?

16 A. I don't recall.

17 Q. Well, you were at the meeting at Pappadeaux?

18 A. Yes, I was.

19 Q. Had you ever seen Bill Fisher before then?

20 A. I'm not certain.

21 Q. Okay. If -- you sent an e-mail to Bill Fisher the next

22 day, September 21st, telling him what a pleasure it was to

23 meet him, would that indicate that you probably hadn't met him

24 before?

25 A. Yes.

16: 15: 06 1 Q. So when you told this jury on direct examination that on  
2 August 25, 2004 one of the developers that you were trying to  
3 put pressure on was Bill Fisher, that was not true, was it?  
4 A. I'm sorry. I didn't follow your question.  
5 Q. All right. I'll do it a little slower, and I'll speak a  
6 little softer.  
7 When you told this jury that on August 25, 2004 when you  
8 wanted the moratorium from the city council that you did it to  
9 put pressure on developers, correct?  
10 A. Yes.  
11 Q. And one of the developers specifically that you were  
12 trying to put pressure on was Bill Fisher?  
13 A. Yes.  
14 Q. So can you explain to the jury why the first time you met  
16: 15: 53 15 him was more than a month later?  
16 A. Well, I'm not certain that I met Bill -- that was the  
17 first time I met Bill Fisher. It may not have been.  
18 However, if I have the dates mixed up, then I apologize  
19 for that, but I know the motivation of what I did.  
20 Q. Now, I understand the motivation that you are talking to  
21 the jury about.  
22 My question is, prior to the September 20th lunch or  
23 dinner at the Pappadeaux what specific pressure had you put on  
24 Bill Fisher?  
25 A. I don't recall.



16: 16: 46 1 Q. All right. If in fact the first time you met him was  
2 September 20, 2004 that means that what you told this jury on  
3 direct examination is not true. Isn't that correct?  
4 A. Well, what I'm saying is that I'm not certain that is the  
5 first time I had spoken to Bill.  
6 Q. You testified concerning a number of e-mails and  
7 telephone conversations that were intercepted where the phrase  
8 recommended business partners was used?  
9 A. Yes.  
10 Q. Can you explain to the jury what recommended business  
11 partner means?  
12 A. Those would be subcontractors that came with the referral  
13 from Darren and myself.  
14 Q. And a referral to one of the developers?  
16: 18: 08 15 A. Yes, it would be.  
16 Q. Like Bill Fisher?  
17 A. Yes.  
18 Q. Okay. And I believe you told the jury that these were  
19 contractors or subcontractors who you hoped would kick money  
20 back?  
21 A. Yes.  
22 Q. Can you tell the jury what specific discussions you had  
23 with these recommended business partners to make sure that  
24 they would kick money back to you before you recommended them?  
25 A. I did not have a conversation with them.

16: 18: 42 1 Q. Oh, you did not?

2 A. No, I did not.

3 Q. But I assume that you and Darren discussed these

4 recommended business partners before you submitted a list to

5 Bill Fisher?

6 A. No, we did not. Some of the recommended business

7 partners I did not know and had not seen before.

8 Q. If you were counting on these recommended business

9 partners that you did not know and had never met hoping they

10 were going to kick money back to you in this kickback scheme,

11 how could you be sure that was going to happen?

12 A. I wasn't sure.

13 Q. When you met Bill Fisher on September 20, 2003, two days

14 later he sent a proposed contract to you and Darren, correct?

16: 20: 11 15 A. (No response.)

16 Q. Would it help if you saw that contract?

17 A. Yes, it would.

18 MR. STEINKE: May I approach?

19 THE COURT: Yes.

20 BY MR. STEINKE:

21 Q. I show you what's been admitted into evidence as BP 327.

22 A. Yes.

23 Q. Okay. You testified that when you e-mailed Bill Fisher

24 and said -- this was on -- this is Government's Exhibit 218.

25 Where it says you appreciated the candor and openness,

16: 21: 05 1 especially without having to raise everyone's blood pressure.  
2 Do you see that?  
3 A. Yes, I do.  
4 Q. You testified on direct examination that you expected an  
5 acrimonious discussion?  
6 A. Yes.  
7 Q. If this was the first time you met with Bill Fisher, why  
8 did you expect an acrimonious discussion?  
9 A. I suppose for two reasons.  
10 One -- and, again, I would just repeat that. That may  
11 have been the first time I met Bill Fisher, but I'm not  
12 certain that that was the first time that I had spoken with  
13 him.  
14 Q. Okay.  
16: 21: 48 15 A. Just based on Darren and my conversation where we were  
16 asking for a piece of his action.  
17 Q. A piece of the action. I believe that's what you  
18 testified on direct examination, a piece of the action.  
19 A. I thought that it would be a tougher conversation.  
20 Q. What did you mean -- what did you consider to be a piece  
21 of the action? What were you asking for?  
22 A. We were asking for a percentage of the developer's fee.  
23 Q. Do you remember what that percentage was?  
24 A. Yes, I did. I believe that the last number I heard was  
25 50 percent of developer's fee.

16: 22: 28 1 Q. 50 percent. Okay. And on September 20, 2004 it's your  
2 testimony to this jury that you and Darren told Bill Fisher  
3 that you wanted 50 percent of the developer's fee?  
4 A. (No response.)  
5 Q. Correct?  
6 A. I'm not certain I understand your question.  
7 Q. Well, you testified that the last number was 50 percent,  
8 the percentage of the development fee, and I'm asking you, is  
9 it your testimony to the jury that on -- or at this meeting on  
10 September 20, 2004 that you and Darren Reagan and Kathy Nealy  
11 and Bill Fisher discussed a 50 percent ownership in the  
12 development fee?  
13 A. No, I don't believe that's what I'm testifying.  
14 Q. Okay.  
16: 23: 27 15 A. What I recall is that the last revision of the contract  
16 that I saw, the fee had been increased to 50 percent.  
17 Q. I'm talking about at this meeting.  
18 What percentage of the development fee did you want?  
19 A. I don't know what the percentage was. I don't recall  
20 what the percentage was at that meeting.  
21 Q. If the reason that you and Darren are doing this is to  
22 get a piece of the action, you're telling this jury that you  
23 and Darren didn't discuss in advance how much of a piece of  
24 the action you wanted?  
25 A. I'm not saying that we didn't discuss it. I'm just

16: 24: 08 1 saying that I don't recall what that percentage was at this  
2 time.  
3 Q. Would you agree with me that that percentage of the  
4 development fee was an integral part of this extortion plot?  
5 A. (No response.)  
6 Q. It was an important part of it, wasn't it?  
7 A. I believe so.  
8 Q. You have pled guilty to that?  
9 A. Yes, I have.  
10 Q. And you don't remember the integral part of this  
11 extortion plot today?  
12 A. No, I do not.  
13 Q. All right. But you said that this percentage of the  
14 development fee on September 20, '04 was discussed openly  
16: 24: 49 15 there at the meeting, correct?  
16 A. I did not say that.  
17 Q. Well, was it discussed?  
18 A. I don't know what was discussed.  
19 Q. Well, didn't you say on direct examination that Bill  
20 Fisher was open to it?  
21 A. If that -- if I used that term in my note that I sent  
22 back to him.  
23 Q. Well, but I believe you testified that we were asking for  
24 a piece of the action.  
25 And Marcus Busch said, and how did Bill Fisher react.

16: 25: 19 1 And you said Fisher was open to it.

2 A. Well --

3 Q. Was he?

4 A. I mean that he didn't say no.

5 Q. Okay. So that tells me then that the percentage of the  
6 ownership was discussed at this meeting?

7 A. I don't know for certain that it was or was not, because  
8 I can't recall whether the percentages was discussed or not.

9 Q. Well, if the percentage of the ownership was an integral  
10 part of this extortion scheme, doesn't it make sense that you  
11 would go to the meeting and say, Bill Fisher, we want X  
12 percentage of the ownership if that in fact is what you were  
13 talking about? Doesn't that make sense, Mr. McGill?

14 A. It makes sense. It's just I do not recall what the  
16: 26: 04 15 percentage was, because the percentage changed over time.

16 THE COURT: All right. Mr. Steinke, we're going to  
17 take a stretch break here.

18 MR. STEINKE: Yes, ma'am.

19 THE COURT: All right. Thank you.

20 BY MR. STEINKE:

21 Q. Mr. McGill, you would agree with me, would you not, that  
22 October 27, 2004 was a very important date in your extortion  
23 plot?

24 A. Would you remind me what October 27th was.

25 Q. October 27th is when the Dallas City Council had a number

16: 28: 07 1 of projects of both Brian Potashnik and Bill Fisher pending  
2 before it?  
3 A. Yes.  
4 Q. And the object of your extortion plot was to get the city  
5 council to approve the projects which you wanted approved?  
6 A. Yes.  
7 Q. All right. Of the projects that were pending on  
8 October 27, 2004 tell the jury which projects you wanted  
9 approved?  
10 A. Without seeing the list now, I wouldn't be able to repeat  
11 those projects, other than Pecan Grove, Dallas West Village.  
12 Q. Those were Bill Fisher's projects?  
13 A. (No response.)  
14 Q. Do you know?  
16: 28: 52 15 A. Yes, I do know. And I believe both of those were Bill  
16 Fisher's projects.  
17 Q. You believe they were his projects?  
18 A. Yes.  
19 Q. So can you tell the jury on October -- well, let me ask  
20 it this way.  
21 One of the pivotal points in an extortion plot is to have  
22 the Dallas City Council in this case vote on the projects you  
23 wanted approved, correct?  
24 A. That's correct.  
25 Q. All right. Can you tell the jury how the council voted

16: 29: 30 1 on October 27, 2004?

2 A. No.

3 I would like to amend my answer.

4 What we -- what we needed to have the Dallas City Council  
5 to follow the action that would help us. If that meant to  
6 have the projects approved, then we needed to have them  
7 approved. If they needed to be delayed, then we needed to  
8 have them delayed.

9 Q. So on October 27, 2004 tell the jury which projects you  
10 wanted delayed, and which projects you wanted approved to help  
11 you get money in this extortion plot?

12 A. Well, eventually we would have wanted to have projects --  
13 Bill Fisher's projects approved of those -- that was the  
14 developer that we were working with.

16: 30: 24 15 Q. Okay. The Dallas City Council vote was very important in  
16 your extortion plot, wasn't it?

17 A. Yes, it was.

18 Q. Because if they voted the right way, you would get money?

19 A. Yes.

20 Q. So did you keep tabs on how they voted?

21 A. At that time I did.

22 Q. Okay. How did they vote?

23 A. I believe that the projects were approved, but I don't  
24 have a clear recollection of what happened then.

25 Q. Isn't it a fact you have no clue what happened on



16:30:51

1

October 27, 2004?

2

MR. BUSCH: Your Honor, that's argumentative, and I would ask Mr. Steinke to show Mr. McGill the --

4

MR. VITAL: He's --

5

THE COURT: Counsel, I'll control the courtroom.

6

The objection is overruled. You may answer the question.

7

BY MR. STEINKE:

8

Q. Mr. McGill, do you have any knowledge factually of what the Dallas City Council did on October 27, 2004?

9

10

A. Yes. I had the minutes from that meeting at that time, and in fact I may have even made a note in the margin of the minutes. I just simply don't recall all the details of this meeting of three or four years ago.

11

12

13

14

Q. Well, I'll ask you then, since the meeting was a pivotal part of the extortion plot, did you win or lose in the

16:31:40

15

16

October 27th, vote?

17

A. I don't recall.

18

Q. You don't know whether you won or lost on October 27th?

19

A. No, I don't recall.

20

Q. Okay. You mentioned Pecan Grove and Dallas West Village.

21

And have you ever been out to either project or either project site?

22

23

A. Yes, I have.

24

Q. Okay. And during this time you were extorting money from Bill Fisher?

25

16: 32: 34 1 A. During what time?

2 Q. Well, around October 27, 2004 what had Bill Fisher done  
3 to guarantee you that -- well, let me rephrase that.

4 What had you told Bill Fisher concerning the vote at the  
5 Dallas City Council?

6 A. I don't recall if I spoke to Bill Fisher to tell him  
7 anything.

8 Normally that's not the way it would happen. Darren  
9 would be the one speaking directly to Bill.

10 Q. So when you have told the jury everything that was going  
11 on with Don Hill, that was information you got from somebody  
12 else?

13 A. No, it was not. Normally -- on occasion I was involved  
14 with meetings with Don or -- and some on occasion with Bill.

16: 33: 33 15 Q. When did those meetings start with Don?

16 A. I don't recall the dates. I would need to have my memory  
17 refreshed on those dates.

18 MR. STEINKE: Well, I can't find it.

19 I'll move on to something else. I'm sorry.

20 BY MR. STEINKE:

21 Q. At the Pappadeaux meeting, the first one, do you recall  
22 that?

23 A. I recall having two meetings.

24 Q. I believe you said that one of the meetings you didn't  
25 have a really good memory of what happened, but at the other

16: 35: 04 1 meeting you had a pretty good recollection?

2 A. Yes.

3 Q. The meeting that you had the really good recollection,

4 when did that take place?

5 A. I'm not certain which of the two dates that it happened,

6 but it happened.

7 Q. At the meeting that you have a really clear recollection

8 on, who was present?

9 A. Kathy Nealy, myself, Darren, D'Angelo Lee.

10 Q. Was Bill Fisher?

11 A. I don't -- I don't believe Bill Fisher was there.

12 Q. Okay. And this is the one where y'all were trying to

13 figure out who was going to be the spokesperson?

14 A. Yes.

16: 35: 45 15 Q. Who was going to control the projects?

16 A. Yes.

17 Q. Okay. And I believe you said that Darren wanted to

18 control it, and D'Angelo Lee wanted to control it?

19 A. Yes.

20 Q. What decision was made?

21 A. I don't know if a decision was made at that time.

22 Q. You also said that you talked at this meeting about

23 minority contractors?

24 A. Yes.

25 Q. And what was the purpose of that discussion?

16:36:16 1 A. To emphasize the need to get minority contractors  
2 involved in these projects with the chosen developer.  
3 Q. And you also discussed the deed restrictions?  
4 A. I believe so at that meeting. I believe so.  
5 Q. What were the deed restrictions that you discussed?  
6 A. One of the deed restrictions had to do with BSEAT  
7 becoming a participating partner with Bill Fisher.  
8 Q. Okay. And that was one of the original ideas when the  
9 BSEAT CDC was first created, wasn't it?  
10 A. Yes, it is.  
11 Q. Okay. So asking for an ownership interest is not  
12 inconsistent with the reason that the CDC was formed in the  
13 first place, is it?  
14 A. No, it's not.  
16:37:13 15 Q. Okay. Can you describe to the jury how the deed  
16 restrictions fit into your extortion plot?  
17 A. Well, it helped to re-enforce our demands on him.  
18 Q. Demands on him?  
19 A. Yes.  
20 Q. How would that help the extortion plot?  
21 A. Well, if we were -- if he accepted all of the deed  
22 restrictions and we are a participating partner, then that  
23 means possibly there would be more money for us to split up  
24 among ourselves.  
25 Q. And in this extortion plot at this point in time how much

16: 37: 58 1 money had Bill Fisher given you?

2 A. None.

3 Q. Okay. I believe you testified that you had input into  
4 those deed restrictions?

5 A. I don't believe so.

6 MR. STEINKE: May I have a moment, your Honor?

7 THE COURT: Yes.

8 BY MR. STEINKE:

9 Q. Mr. McGill, do you recall in your August 2007 meeting  
10 with the FBI after you had gotten the target letter you met  
11 with them again, correct?

12 A. Yes, I did.

13 Q. Do you remember discussing with them the deed  
14 restrictions?

16: 39: 42 15 A. No, I don't remember all of the subjects that were gone  
16 over.

17 Q. Do you remember telling them that you were not familiar  
18 with the communication in the deed restrictions?

19 A. Well, what I recall about the deed restriction is that a  
20 consultant actually put -- I believe the top -- put together  
21 most of the deed restriction in consulting in terms of -- gave  
22 those deed restrictions to Darren. And I believe that he  
23 amended the deed restrictions. And I think that -- I believe  
24 I saw them at that point.

25 Q. But didn't you tell the jury that you had input into

16:40:19 1 those deed restrictions?

2 A. Well, the part that talked about BSEAT CDC was the part  
3 that was added, and I believe that I had input into that.

4 Q. Do you remember telling the FBI in August of 2007 that  
5 you were not familiar with the communication to Suzan Kedron  
6 on November 19, 2004 regarding those deed restrictions?

7 A. I just -- I do not recall that --

8 MR. STEINKE: May I approach?

9 THE COURT: Yes. But let the witness finish before  
10 you move on.

11 MR. STEINKE: I'm sorry.

12 BY MR. STEINKE:

13 Q. Mr. McGill.

14 A. I simply may not recall it at that time.

16:41:00 15 Q. So you didn't recall it in August of 2007, but you now  
16 recall it in August of 2009?

17 A. Yes.

18 Q. Okay. The subcontractors that you and Darren picked out  
19 who would kick money back, did you ever get any money kicked  
20 back to you from any subcontractor?

21 A. No.

22 Q. No?

23 A. No.

24 Q. Now, the BSEAT contract with Terrell & Associates in  
25 Exhibit -- Government's Exhibit 167, you talked about that

16:41:50 1 with the jury, correct?  
2 A. Yes.  
3 Q. All right. Was that a contract between Bill Fisher and  
4 Terrell & Associates, or BSEAT and Terrell & Associates?  
5 A. BSEAT.  
6 Q. Who was going to pay Terrell & Associates? BSEAT?  
7 A. Yes.  
8 Q. You said that this contract between BSEAT and Terrell &  
9 Associates was a way for you to get paid?  
10 A. Yes.  
11 Q. But in fact if you were going to get paid, the money was  
12 coming from Darren Reagan? BSEAT, correct?  
13 A. That's correct.  
14 Q. Did you get any money out of this contract?  
16:42:29 15 A. No, I did not.  
16 Q. Okay.  
17 THE COURT: How are we coming, Counsel?  
18 MR. STEINKE: I'm sorry?  
19 THE COURT: How are we coming on the time?  
20 MR. STEINKE: I will be finished by 5:00.  
21 THE COURT: Let's see if you can move a little more  
22 quickly.  
23 MR. STEINKE: I'll be finished by 5 till.  
24 THE COURT: Let's just go.  
25 MR. STEINKE: Now, if I could have, Ms. Christensen,

16: 43: 07 1 Government's Exhibit 5450, the transcript.

2 If I could have page 5.

3 BY MR. STEINKE:

4 Q. Mr. McGill, this is an intercepted conversation between  
5 you and Darren Reagan on February 8, 2005 that the government  
6 played during your direct examination. And --

7 MR. STEINKE: If you could scroll down.

8 BY MR. STEINKE:

9 Q. Where Bill Fisher asks if the contracts are going to move  
10 forward.

11 MR. STEINKE: Then if you could go to page 6,  
12 please.

13 If you could scroll down.

14 Okay. That's good.

16: 44: 01 15 BY MR. STEINKE:

16 Q. Darren Reagan said, "You asked me to try to get this  
17 thing passed, but I doubt that it's going to happen in this  
18 fashion, because we're going to have to work on some  
19 additional commitments, really tighten it up, and get  
20 something in writing."

21 Now, by commitments you were talking about minority  
22 subcontractors, correct?

23 A. When we are talking about -- yes, the subcontractors and  
24 our contract.

25 Q. But it says commitments?



16: 44: 28 1 A. Yes.

2 Q. And don't you understand in your conversations with

3 Darren Reagan that that concerned the minority subcontractors?

4 A. Yes. And our contract.

5 Q. I thought you already had a contract with Bill Fisher?

6 A. I'm not certain that we had it tightened down as we would

7 like to have had it at that point.

8 Q. Didn't BSEAT have a contract with Bill Fisher's company

9 for Pecan Grove that paid it \$120,000, and a contract with

10 Dallas West Village that paid it a hundred and something

11 thousand dollars?

12 A. I'm not sure if it had been consummated at this point.

13 Q. Well, if I represent to you that both of those contracts

14 had been signed in October or November of 2004, would that

16: 45: 21 15 change your --

16 A. Yes.

17 Q. But you just didn't know about the contracts?

18 A. I found out about some -- about the BSEAT contract later.

19 I didn't know at the time it was signed.

20 Q. All right. So you and Darren are involved in this

21 extortion plot, but you don't know that the contracts have

22 been signed?

23 A. That's correct.

24 Q. You said that you believed that Bill Fisher was wired?

25 A. Yes.

16:45:57 1 Q. All right. And so if he was wired would that indicate  
2 that he was under -- that was involved in some kind of  
3 criminal investigation?  
4 A. What I said was that Darren believed that Bill Fisher was  
5 wired.  
6 Q. Did you share that belief?  
7 A. I didn't have an opinion one way or another.  
8 Q. Weren't you laughing about it on one of the audiotapes?  
9 A. I don't recall whether we were laughing about that.  
10 Q. About going to the back of the restaurant where it's  
11 loudest?  
12 A. Yes.  
13 Q. Did you think Bill Fisher might be wired?  
14 A. I didn't have any idea. But if Darren believed that he  
16:46:31 15 was wired, then I suggested that he take some kind of  
16 precaution.  
17 Q. If Darren believed that he was wired, wouldn't that  
18 indicate to you that there was some kind of criminal  
19 investigation was going on?  
20 A. Not necessarily.  
21 Q. Did that possibility bother you?  
22 A. If my conversations were being taped and I did not know  
23 it, yes, it would have.  
24 Q. But that didn't stop you from engaging in this  
25 conspiracy?

16:47:00 1 A. It didn't stop me from having the conversations that I  
2 had.  
3 Q. You said that the church meeting on February 22, 2005 was  
4 to set up a payoff?  
5 A. Yes.  
6 Q. You were involved in the planning of that?  
7 A. No.  
8 Q. You weren't?  
9 A. Well, I'm not certain what you mean by "planning."  
10 Q. Well, were you involved in discussions with Darren about  
11 who was going to get the payoff money?  
12 A. Yes. Darren discussed it with me either a bit before or  
13 after.  
14 Q. Okay.  
16:47:41 15 A. Or maybe both.  
16 Q. Now, were you involved in the discussion with Darren  
17 about how much money you were going to make -- you were going  
18 to give in this payoff?  
19 A. How much I was going to get?  
20 Q. No. How much y'all were going to give?  
21 A. I'm sorry. How much?  
22 Q. How much you and Darren were going to give in this  
23 payoff, did you and Darren discuss that?  
24 A. I don't recall an amount coming up.  
25 Q. All right. Was this the first payoff that y'all had

16: 48: 08 1 made?

2 A. So far as I know.

3 Q. You would agree with me that the payoff would be an  
4 integral part of this extortion plot?

5 A. Yes.

6 Q. And you're telling the jury that you have no idea how  
7 much y'all had decided to pay a public official there?

8 A. What I recall is that I don't believe that there was an  
9 amount mentioned. That was more terms like, well, I'm going  
10 to split it up, I'm going to divide it up, or I'm going to  
11 break something off.

12 Q. You don't know how much money was involved, do you?

13 A. I don't believe that I ever knew the total amount.

14 Q. Yet you call it a payoff?

16: 48: 55 15 A. Yes.

16 Q. Couldn't it have been more easily -- or just as easily a  
17 contribution?

18 A. I don't believe so.

19 Q. Well, in fact, didn't you and Darren in a number of  
20 conversations after this was done talking about it in terms of  
21 a contribution? The word "contribution" was raised several  
22 times, wasn't it?

23 A. I believe that Darren used the word "contribution."

24 Q. But you didn't correct him?

25 A. No, I did not.

16: 49: 28 1 Q. You say that Darren never told you about the payments  
2 that Bill Fisher had paid to him, specifically \$85,000 on  
3 January 31, '05, he never told you about that?  
4 A. I don't believe that he ever did.  
5 Q. Do you know the circumstances under which that payment  
6 was made?  
7 A. No, I do not.  
8 Q. Do you know whether or not it was payment on a  
9 legally-binding contract?  
10 A. I have no idea.  
11 Q. You're not trying to say that that money was extorted  
12 from Bill Fisher?  
13 A. I'm only saying that I don't believe I knew about it.  
14 Q. The 22,500 or February 22nd, you didn't know about that?  
16: 50: 17 15 A. No, I did not.  
16 Q. You're not telling the jury that that money was extorted  
17 from Bill Fisher, are you?  
18 A. What I am saying is I did not know about the payment.  
19 Q. So you're involved in this extortion scheme, and yet you  
20 didn't know about any of the extortion payments?  
21 A. That's correct.  
22 Q. We have heard the number -- we have heard it several  
23 times, the conversation that was recorded where y'all talked  
24 about sweating Bill like a pig?  
25 A. Yes.

16:51:25 1 Q. And right after those words are used y'all are talking  
2 about his weight and losing weight, weren't you?  
3 A. Yes.  
4 Q. The fact that he was burning up calories?  
5 A. Yes.  
6 Q. Finally, Mr. McGill, you never got any money from Bill  
7 Fisher?  
8 A. No.  
9 Q. Never got any money from Darren Reagan?  
10 A. No.  
11 Q. All right. And in fact didn't you feel betrayed by  
12 Darren?  
13 A. No.  
14 Q. No. Do you remember meeting with the FBI on June 28,  
16:52:32 15 2005, which was eight days after the FBI raid? Do you  
16 remember that?  
17 A. Yes, I do.  
18 Q. Do you remember telling the FBI that you felt betrayed by  
19 the fact that Reagan did not share any of the money with you?  
20 A. I don't remember using the word "betrayed." I'm sure  
21 that I did. If I did, I think it was more disappointment that  
22 I felt.  
23 MR. STEINKE: May I approach?  
24 THE COURT: Yes.  
25 BY MR. STEINKE:

16:53:11 1 Q. This is on page 5 of the 302.  
2 A. Yes.  
3 Q. Does that refresh your memory?  
4 A. Yes, it does.  
5 Q. You felt betrayed?  
6 A. Yes.  
7 Q. Is that why you are testifying the way you are today?  
8 A. No.  
9 MR. STEINKE: That's all I have, your Honor.  
10 THE COURT: Do you have any questions, Ms. Deckard?  
11 MS. DECKARD: No, I have no questions of this  
12 witness.  
13 THE COURT: Mr. Greene.  
14 MR. ALLEN: Your Honor, Mr. Greene has no questions  
16:53:36 15 for this witness.  
16 THE COURT: All right. Mr. Jackson?  
17 MR. JACKSON: Yes, your Honor.  
18 THE COURT: Are you going to have any questions,  
19 Mr. Vital?  
20 MR. VITAL: Yes, your Honor.  
21 THE COURT: How long will you be, Mr. Vital?  
22 MS. DECKARD: Fifteen minutes maybe.  
23 THE COURT: How long will you be, Mr. Jackson?  
24 MR. JACKSON: 15, 20 minutes.  
25 THE COURT: Okay. Let's Get started.

16:54:05 1

***CROSS-EXAMINATION***

2 BY MR. JACKSON:

3 Q. Mr. McGill, my name is Ray Jackson. I represent  
4 Mr. Hill, the citizen accused in this matter.5 I believe you testified on direct about the things that  
6 you believed, what you thought, what you assumed, but what I  
7 want to kind of go at is what you knew. Okay?

8 A. Yes.

9 Q. Let's start with the February 22nd date behind Friendship  
10 West.11 You testified that you had a phone call from Reagan that  
12 day, and asked if Mr. Hill was there, right?

13 A. Yes.

16:54:39 15

14 Q. Now, when Mr. Hill -- Mr. Reagan gave an envelope of  
15 money in it to Mr. Hill, were you there?

16 A. No, I was not there.

17 Q. Are you aware of whether Mr. Reagan told Mr. Hill that  
18 this was a political contribution?

19 A. No, I'm not aware.

20 Q. Are you aware of Mr. Reagan told Mr. Hill that a thousand  
21 of this is from Mr. McGill?

22 A. No, I'm not.

23 Q. So if he did that, and you were shown this chart that had  
24 your -- you were shown the exhibit that had your name on the  
25 envelope.



16:55:05 1 Do you recall that?

2 A. Yes, I do.

3 Q. Okay. So you don't know if -- you can't tell this jury  
4 whether or not Mr. Reagan told Mr. Hill that day this is a  
5 political contribution, and this is how it's divided out?

6 A. No, I cannot.

7 MR. JACKSON: Okay. Let's go to Government's  
8 Exhibit 5504, and let's do the transcript only, please.

9 If we can go to the second page, please.

10 Okay. If we can go -- start -- highlight line 4.

11 Go on down, please.

12 BY MR. JACKSON:

13 Q. All right. This is a call that occurred on the --  
14 between Mr. Reagan and Don on February 23, 2005. Okay?

16:56:07 15 A. Yes.

16 Q. And you wasn't a part of this phone call, but this call  
17 on line 6, Mr. Hill says, "Thank you, man. Appreciate you,  
18 man. That -- and I want you to know that that's really --  
19 that's really going to help me. It's really going to help our  
20 campaign. It's going to help everything."

21 Okay. Now, Mr. Hill says there that the money that  
22 Mr. Reagan gave him was going to help the campaign.

23 Do you see that?

24 A. Yes.

25 Q. In fact, after this conversation you then have a

16: 56: 40 1 conversation with Mr. Reagan --

2 MR. JACKSON: And that's Government's Exhibit 5506,  
3 and if we could just have the transcript, please.

4 BY MR. JACKSON:

5 Q. You were played a portion of this conversation with  
6 Mr. Busch, and since it was -- some of it was played, we will  
7 go to the transcript.

8 MR. JACKSON: If we can go to page 2 of this,  
9 please.

10 Go to page 3, please.

11 Page 5, please.

12 Thank you. That helps.

13 BY MR. JACKSON:

14 Q. All right. At the top of this line 2 Reagan tells you,  
16: 57: 50 15 "Damn. Well, it's -- what is this? What is this for?"

16 Reagan in this conversation is telling you about what  
17 happened when he met Don at the church, right?

18 A. Yes.

19 Q. Reagan is telling you when he met Don what Don tells him  
20 is -- when he gives him the money is like what is this for,  
21 right?

22 A. Yes.

23 Q. Then he told Don, he says, "Brother, that's a  
24 contribution."

25 Do you see that?

16: 58: 21 1 A. Yes, I do.

2 Q. Okay. And on several occasions in conversations when you

3 and Mr. Reagan spoke you talked about that money that day in

4 contribution form or campaign form, right?

5 A. Well, I don't -- I don't recall how many times we talked

6 about it, but we may have talked about it at least once.

7 Q. You mean -- it was never talked about and never said, you

8 know what, Don, this money wasn't for a contribution, this

9 money was your cut.

10 Y'all never said that, did you?

11 A. No.

12 Q. Now, let's talk about what Don knew. Okay?

13 There were conversations played between you and

14 Mr. Reagan where you and Mr. Reagan are talking from BSEAT's

16: 59: 10 15 standpoint -- let me back up for one second.

16 When Reagan is explaining up here on line 2 and he says

17 Don says, you know, well, what is this, then that tells you

18 that Don didn't know what was coming, right? He wasn't

19 expecting it?

20 A. I can't say what Don expected or didn't.

21 Q. If he was expecting it, he wouldn't be saying, you know,

22 what is this, I appreciate it that you giving me my money,

23 right?

24 A. I don't know.

25 Q. Well, if I hand you something and you say what is this,

16:59:48 1 that means that you don't know what it is and you wasn't  
2 expecting it, right?  
3 A. If you gave it to me in an envelope I might say what is  
4 this.  
5 Q. And he talks about -- well, let me go to the next  
6 question.  
7 When we talk about those conversations that you were  
8 having with Darren Reagan, those conversations were private  
9 conversations between and you Darren, right?  
10 A. Yes.  
11 Q. Mr. Hill is not on the phone listening to you and Darren  
12 talk about whatever plans you have for BSEAT, or having  
13 additional roles with Bill Fisher, right?  
14 A. No.  
17:00:23 15 Q. How much of that can you tell this jury that Don knew?  
16 A. I can't tell the jury that Don knew about any of those  
17 conversations.  
18 Q. Don is a council person, right?  
19 A. That's correct.  
20 Q. How well do you know Don?  
21 A. Very well.  
22 Q. Do you know Don is a big advocate of economic development  
23 in the Southern Sector?  
24 A. Yes.  
25 Q. Do you know he's also a big advocate of African-American

17:00:43 1 contractors?

2 A. Yes.

3 Q. Are you also aware that Darren Reagan has -- we'll call  
4 it leverage with Don Hill?

5 A. Yes.

6 Q. Meaning that Darren has been around a long time, he knows  
7 these council persons, right?

8 A. Yes.

9 Q. And he can get an audience with a council person whenever  
10 he wants to?

11 A. Yes.

12 Q. And he can ask his council person if something is not  
13 going right out here where we are opposing or doing anything,  
14 delay the vote.

17:01:13 15 He can do that, can't he?

16 A. Apparently.

17 THE COURT: Is that a convenient breaking point?

18 MR. JACKSON: Sure, it is, your Honor.

19 THE COURT: Ladies and gentlemen, we are going to  
20 start tomorrow 15 minutes later than I told you at 8:45  
21 instead of 8:30.

22 Okay. Have a nice evening. All rise.

23 (Jury retired from the courtroom.)

24 THE COURT: All right. Mr. McGill, we'll see you at  
25 8:45.

17:02:07 1 Be seated. I have a couple of things that I want to talk  
2 to the lawyers about.

3 All right. I have organized your list of witnesses, and  
4 I took only the witnesses that you all said yes. Didn't  
5 include any of your probables. So that means that this lists  
6 that I have here is the best case scenario.

7 There are 60 witnesses on that list counting all of the  
8 defense and -- and there are overlaps which I have eliminated,  
9 and that includes Don Hill and Sheila Hill testifying based on  
10 their attorney's statements that they would. I'm not  
11 including any others, and I'm not inquiring as to whether any  
12 defendants are testifying. I'm just telling you what I've  
13 counted.

14 We have 41 days of trial left on the schedule, and some  
17:03:10 15 of those are partial days. By my count we're 21 days of  
16 testimony now. That's my count. So I don't know how we're  
17 going to do it. 25 -- just so the numbers are clear -- 25 of  
18 these are government witnesses, and 35 are defense witnesses.  
19 That's eliminating all overlap.

20 MR. BUSCH: I think the government figures we'll be  
21 a little less than 25. I'm telling the Court that. It may be  
22 closer to 20.

23 I also suggested to the Court last week with the nature  
24 of the witnesses, we got through, I think, ten witnesses last  
25 week, and I think most of the remaining government witnesses

17:04:01 1 are relatively short.

2 Mr. McGill obviously is not short.

3 Mr. Fisher, who's next will be even longer.

4 But after that I believe Andrea Spencer, perhaps will be  
5 about the same length as Mr. McGill, but most of the remaining  
6 government witnesses outside of the financial analyst, David  
7 Garcia, and Agent Sherman will be relatively short.

8 So I imagine we will be able to go through these  
9 witnesses -- most of the remaining witnesses outside of the  
10 ones I highlighted fairly expeditiously.

11 THE COURT: Well, here's what we're going to be  
12 doing on Wednesday afternoon after the jury leaves.

13 The jury -- we're recessing early on Wednesday, and I'll  
14 remind everyone that we have a half hour lunch break, and a  
17:04:52 15 half hour means a half hour. So you all figure out how you're  
16 going to eat in half hour. Because it doesn't mean 45  
17 minutes, and we're not sitting around for waiting for anybody  
18 to get back.

19 If you need another half an hour after we recess I'll  
20 give it to you. Then we're going to come back in here and I'm  
21 going to go through every one of these witnesses on my list  
22 and find out what they're about and how long they're going to  
23 take.

24 MR. BUSCH: Your Honor, may -- I would simply ask --  
25 I think that would be perhaps create problems for all parties.

17:05:31 1 If the government may respond in camera ex parte, and the  
2 defendants responds in camera ex parte as to the anticipated  
3 testimony from the remaining witnesses. I don't think the  
4 defendants are going to disclose that weeks in advance to the  
5 government. And likewise.

6 So we'll be happy to discuss that.

7 THE COURT: Well, I'm not going to require much, and  
8 if -- I don't know on what basis I'm not going to require the  
9 government to do that, but we'll give it a shot and you all  
10 may say can we go in camera and then I'll do it, but as  
11 general proposition I'm not going to do it. I'll be open to  
12 that as needed, but most of these witnesses it's not going to  
13 be necessary to do it. So I will read out right now so you  
14 all have it, the list.

17:06:29 15 The other thing we're going to do, and I don't need to do  
16 it with you, we don't need to do this on Wednesday, but the  
17 reason I'm suggesting it doesn't need to be Wednesday, you all  
18 may find this part productive to do Thursday or Friday. I'll  
19 actually be amenable to doing all of this on Thursday or  
20 Friday, but they're already here. You guys are in the  
21 building and they're not. So I'm trying to avoid them having  
22 to come back for this exercise since I think they would rather  
23 go back to their offices for a couple of days.

24 I don't care -- I mean, if everybody agrees that this  
25 will all be done in camera that's fine with me. I don't think



17:07:11 1 you all need to know. Only I do.

2 So -- all right. I'll accept that suggestion, Mr. Busch.

3 So you guys can come up here. I'll work you in on  
4 Thursday or Friday, and I'll hear you all on Wednesday, and  
5 they'll go away. And that will -- and I will turn off my link  
6 here, and I'll clear the courtroom. That will be a private  
7 conversation between us, and we'll transcribe that separately,  
8 but I have got to have a feeling for where we're going here  
9 because I'm nervous about the time frame.

10 The other thing that I would like you all to do, we have  
11 been working on the charge, and as is usual, I think that the  
12 best thing here is for you all to sit down with each other  
13 with your drafts so that I only have to sort out the real  
14 disputes, and not just some stylistic differences.

17:08:12 15 So I think that would be a productive use of time, and  
16 you might deputize one or more defense counsel for that first  
17 run. That's without prejudice to any and all objections. I  
18 don't think you need to have the whole gang of you in on that.  
19 But you can handle that as you would, but I would like to be  
20 working on that as we go.

21 Because after this week we have got three weeks of no  
22 days off. So I know that's hard on all of you. I'm very  
23 sympathetic to it. It's less hard on me, but it's hard on me  
24 too. We all have other things to do, and I understand that.

25 If there is something that I can do to ease your lives a

17:08:57 1 bit, I will. So if there is something that you all want to  
2 suggest to me, I'm not going to be offended by any suggestion  
3 anybody might make.

4 All right. I'm going to read the names out to the  
5 defense counsel.

6 Do you want me to do that, or do you feel like you have  
7 that?

8 (No response.)

9 THE COURT: I'll read both. It won't take but a  
10 minute.

11 All right. This is the defense counsel list.

12 I'll tell you what. Sue, why don't we help them out  
13 here, and you just type these separately for each of them, and  
14 run them for them.

17:09:25 15 Can we do that?

16 COURT REPORTER: Yes.

17 THE COURT: Then tomorrow I'm going to ask Sue just  
18 to type these up for you.

19 These can all be phonetic because if this were a spelling  
20 bee, nobody would win.

21 That means I don't think you all spelled anybody's name  
22 right on your list.

23 So, Sue, you don't need to worry about spelling.

24 All right. This is the defense's consolidated list.

25 Susan Abbey.

17:09:52 1 Leon Backes.  
2 Veni ta Beni tez.  
3 Geni ta Boyd.  
4 Conni e Buford.  
5 Jeff Carpenter.  
6 Comer Catrell I.  
7 Kevi n Dean.  
8 Warren Elli s.  
9 Domi ngo Garci a.  
10 C. B. Green.  
11 Bi lly Greer.  
12 Frederi ck Hannah.  
13 Barry Henry.  
14 Sale em Jafar.  
17:10:18 15 Madel ei ne Johnson.  
16 Dani el Jones.  
17 Phi lli p Ki rkpatri ck.  
18 Eric Maas.  
19 Jason Matl ock.  
20 Gary Mayberry.  
21 Toska Medl ock Lee.  
22 Beverl y Mi tchel l -Brooks.  
23 Mary Poss.  
24 Ken Reese.  
25 Carrol l Robi nson.

17: 10: 56 1 Carolyn Smith.  
2 Mary Suhm.  
3 Gail Terrell.  
4 Nicole Thigpen.  
5 Reverend Otis Tucker.  
6 Pastor Curtis Wallace.  
7 Harry Wright.  
8 Don Hill.  
9 Sheila Farrington-Hill. Just put possibly next to those.  
10 Michael Williams.  
11 I left him out.  
12 That's one of Mr. Robertson's designations.  
13 Okay. That's actually 61 counting the Hills. 36 defense  
14 witnesses.  
17: 12: 03 15 Do you want me to call yours out, and have Sue do that as  
16 well? Do a separate list here for the government?  
17 Anthony Board.  
18 Martin Burrell.  
19 William Cothrum.  
20 Jon Donahue.  
21 Bill Fisher.  
22 Herb Frison.  
23 David Garcia  
24 Prentice Gary.  
25 Tammy Holloway.

17: 12: 30 1 Carrie Holmes.

2 George Hull.

3 Mark Jones.

4 Frank Jordan.

5 Brent Kroener.

6 John Lewis.

7 Ann Lott.

8 Tim Lott.

9 Matt Martin.

10 Richard Pace.

11 Kent Plemons.

12 Kyle Robertson.

13 Don Sherman.

14 Andrea Spencer.

17: 13: 00 15 Stanley Spiegel.

16 Brett Wilkinson.

17 Now, if upon reflecting when you all -- since you're  
18 meeting with me privately, if some of these people are going  
19 to get put on the maybe list, then so be it.

20 If you -- I'm not telling you that you can't reach down  
21 and grab somebody off of that probable list, but if they are  
22 really in your mind yeses, I want to know that right now,  
23 because anybody that's called as a witness that's not on this  
24 list that I'm working with, you're going to have to convince  
25 me about.

17: 13: 40 1 All right. I did not include the -- I think you and  
2 Mr. Busch both said there was one possible custodian of  
3 records, and I didn't include either one. Even that was more  
4 than slightly possible, I didn't include them because I  
5 figured that would be a short witness if necessary.

6 Okay. With reference to the jury charge, I'm assuming  
7 that you will be able to get me something sometime next week.  
8 That's what I'm hoping.

9 Is that possible that you all can have a conference the  
10 latter part of this week?

11 MR. BUSCH: I'll make our facility available and  
12 send an e-mail and perhaps on Thursday or Friday we'll get  
13 together.

14 THE COURT: Again, it's not going -- this is the  
17: 14: 26 15 first in a multi-step process, but it would be more productive  
16 for you to sort that out rather than for us to spend our time  
17 on that.

18 All right. Anything else for today?

19 (No response.)

20 THE COURT: I'm not anticipating that I'm going to  
21 meet with you before court tomorrow, so if you anticipate  
22 something else you want to talk to me about, let me know now.

23 (No response.)

24 THE COURT: Okay. I'll see you in the morning then.

25 MR. GREENE: Your Honor, there probably is going to

17:14:51 1 be a matter on the motion in limine, because I believe  
2 Mr. Fisher is getting ready to come up after this.

3 THE COURT: Y'all have a seat then.

4 Okay. What is the issue that you want to raise?

5 MR. GREENE: On the government's motion in limine in  
6 regard to Mr. Fisher, I'm assuming they're going to get to him  
7 probably at some point tomorrow.

8 THE COURT: Well, I haven't changed my mind on this  
9 theory that you have advocated that Mr. Fisher -- that you're  
10 attempting to get in his prior conviction, which was reversed,  
11 because you think that gives him the motive; that is, a  
12 vengeful motive with respect to the FBI that motivated his  
13 conduct.

14 That was the argument that was made, and I considered  
17:15:52 15 that before. I don't think that is relevant, but if it is, I  
16 have excluded it under Rule 403. I remain of the same view.  
17 I don't think anything has happened in the trial to cause me  
18 to re-think that.

19 Is there something I haven't already considered that you  
20 want to say about that?

21 MR. GREENE: Yes, your Honor.

22 I think your Honor had indicated earlier in trial based  
23 on some testimony that you thought that it may be admissible  
24 if Mr. Fisher took the stand. The government wasn't sure if  
25 they were going to actually call Mr. Fisher. It's not his

17: 16: 31 1 motive against the FBI. It's his motive to use the FBI to  
2 shut down these defendants because of what happened to him  
3 previously.

4 That is -- I think his motive is clearly reflected in his  
5 lawsuit in that he suggests -- well, he doesn't suggest. He  
6 point blank says that the -- and accused the FBI in a lawsuit  
7 of manufacturing testimony, coercing the testimony of  
8 witnesses.

9 I think our defense is that Mr. Potashnik was coerced by  
10 the FBI to enter a plea of guilty, and that's been -- I think  
11 everybody's position in this situation. And the same was  
12 insinuated with Mr. McGill. So I think that that's an  
13 integral part of all defendants' defense.

14 And --

17: 17: 26 15 THE COURT: Okay. Well, I'm sorry, Mr. Greene,  
16 pardon me. That was rude. I didn't mean to step on you.

17 MR. GREENE: That's okay, your Honor.

18 That's the crux of Mr. Fisher's argument. That's what he  
19 alleged in a pleading in which the Fifth Circuit actually  
20 found that the government had withheld certain Brady evidence,  
21 which would add credence to that theory that the government  
22 can manufacture a case, and force people to plead guilty.

23 There were informants in that particular case who ended  
24 up pleading guilty and testifying against Mr. Fisher in which  
25 Mr. Fisher was acquitted. That was the basis of his lawsuit.



17: 18: 06 1 That's -- our argument is that is exactly what was happening  
2 in this particular case.

3 THE COURT: Well, I remain of the same view that I  
4 was.

5 The officers that were involved in that civil suit  
6 brought by Mr. Fisher are not involved in this matter at all,  
7 as far as I have been told.

8 Mr. Fisher's view that those agents acted improperly with  
9 respect to witnesses does not have any relevance in terms of  
10 establishing that any agents in this case acted improperly.

11 The Court is of the view that there is a clear 403 issue  
12 here, and that any probative value of it is outweighed by its  
13 prejudicial impact.

14 So I don't recall saying that -- I mean, I can imagine  
17: 18: 56 15 testimony that Mr. Fisher might give.

16 For example, if Mr. Fisher were to take the stand and say  
17 I am of the -- and you can't bait him into this. I'm not  
18 giving you a road map, but if on direct Mr. Fisher said I  
19 trust the FBI more than anyone I have met in my whole life,  
20 and every person that works for the FBI is completely  
21 credible, well, that might open the door to a lawsuit where he  
22 says otherwise. But I don't remember saying that the fact  
23 that he testifies would in and of itself make this issue  
24 admissible. I wasn't of that opinion, and I'm not of that  
25 opinion now.

17: 19: 47 1 So I haven't heard anything that has caused me to change  
2 my ruling on the limine. You all have your objection, and you  
3 may do whatever you want to do to develop this testimony  
4 outside the presence of the jury. Of course, I'll permit you  
5 to make a bill.

6 If something occurs during the trial that opens it, then  
7 you can come up here and approach the bench, but don't be  
8 asking questions that are going to cause him to have to talk  
9 about it, and then argue that the cat is out of the bag. I'm  
10 not going to permit it.

11 In fact, I'm going to be vigilant about making sure that  
12 doesn't happen.

13 MR. GREENE: Your Honor, the only instance that I  
14 think that that would come up, quite frankly, is on that  
17: 20: 30 15 article. There was an article that has already been admitted  
16 into evidence wherein Mr. Fisher was accused publicly of being  
17 involved in a situation involving a public official,  
18 Mr. Fantroy.

19 And Mr. Fisher at that point realized that he might be  
20 subject to another FBI investigation, and that was the onus  
21 for Mr. Fisher to go out and contact the FBI, which clearly  
22 would be odd to do because of his paranoia about the prior  
23 situation.

24 And he knew he had to create a situation where to get the  
25 focus off of him and get the FBI off of him, he put it on

17:21:16 1 these defendants. That's why he went around recording  
2 conversations and things like that in regards to these  
3 defendants.

4 As soon as the article comes up, how else would I address  
5 it other than, you know, at that particular point?

6 THE COURT: Well, he went to the FBI. The fact that  
7 he had this other -- I mean, your argument is that this --  
8 from his perspective I'll call unsatisfactory experience with  
9 the FBI is what sends him into the warm embrace of the FBI.

10 I'm not getting that frankly, but I'll indulge you,  
11 that's your theory.

12 You may examine him about your comments that it's odd,  
13 but you can't go behind what motivated him if to do that  
14 you're going to develop this prior case where he was  
17:22:16 15 ultimately acquitted. I'm not permitting it.

16 I don't share your view that it handicaps your  
17 presentation of the case, but even if it does, the Court is of  
18 the view that the prejudicial impact outweighs its -- in my  
19 view -- extremely limited probative value.

20 I don't see a probative value at all, but if there is  
21 any, it's in my view clearly outweighed by the prejudicial  
22 impact.

23 Those are the calls I have to make, and that's the call  
24 I'm making.

25 MR. JACKSON: That's fine, your Honor.

17: 22: 44 1 The only thing I would let the Court know is that at the  
2 time he went to the FBI he had pending litigation against the  
3 FBI.

4 THE COURT: So?

5 MR. GREENE: I'm --

6 THE COURT: But your putting in this article and his  
7 dealings with Fantroy isn't going to support your argument  
8 that therefore you get to put in his prior dealings with the  
9 FBI. I'm not going to permit it based on that.

10 MR. VITAL: Your Honor, I was just going to throw  
11 away my trash, but I decided I should wait.

12 THE COURT: Well, this might be an appropriate time  
13 to put some more trash on the table, if you like.

14 MR. JACKSON: He's very distracting, your Honor.

17: 23: 29 15 Can we get him his own personal trash can?

16 THE COURT: I might get him one. Yes, I might.

17 Just share your trash can with him, Mr. Jackson. You  
18 don't look like you have filled that up yet.

19 Anything else, Mr. Greene?

20 MR. GREENE: No, your Honor.

21 THE COURT: If you -- I'll of course permit you to  
22 make a bill outside the presence of the jury whenever you want  
23 to do that.

24 MR. GREENE: Thank you, your Honor.

25 THE COURT: Yes, Ms. Sal dana.

17: 23: 52 1

MS. SALDANA: That was the only follow-up question that I had, Judge.

2  
3 If the Court remembers, there is already a bill based on  
4 Mr. Wilson's testimony that was made on this very issue. The  
5 Court excused the jury and allowed questioning in regard to  
6 that.

7 Is the Court talking about another bill?

8 THE COURT: Yes. I am talking about a bill of  
9 Mr. Fisher. I don't think that asking Mr. Allen questions is  
10 a substitute for making a bill about Mr. Fisher.

11 They're going to have Mr. Fisher squirming himself and  
12 they're going to argue that's relevant and I'm going to permit  
13 that at the end when he's done. Not before.

17: 24: 34 15

14 So when he's finished with his testimony, at some  
15 mutually convenient time, probably after court, you can make a  
16 bill.

17 You're objecting to that?

18 MS. SALDANA: No, Judge, I was just asking about --

19 THE COURT: I don't think it's a substitute. I  
20 think they can make a bill with every witness that they want  
21 to interrogate that I haven't permitted.

22 MR. GREENE: Thank you, your Honor.

23 THE COURT: Anything else then?

24 (No response.)

25 THE COURT: All right. I'll see you all at 8:45.

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*C E R T I F I C A T E:*

I, P. Sue Engledow RPR/CSR, certify that the foregoing is a transcript from the record of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

This the 18th day of June, 2010.

*/S/P. Sue Engledow*

P. SUE ENGLEADOW RPR/CSR No. 1170  
Official Court Reporter  
The Northern District of Texas  
Dallas Division

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